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SUBCOMMITTEE ON STATE LEGAL SERVICES AND ELECTION LAWS

ELECTION LAWS

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ELECTION LAWS

A REPORT
TO THE
FORTY-SIXTH LEGISLATURE

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SUBCOMMITTEE ON STATE LEGAL SERVICES AND ELECTION LAWS

December 1978

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Many dedicated individuals assisted the Subcommittee and the research staff in the development of the draft legislation that grew out of this interim legislative study to revise Montana's archaic election statutes. Appreciation is extended to Representatives Jim Courtney, Representative Ralph Eudaily, Senator Margaret Warden, and to state and local election officials, political parties, the League of Women Voters and the Advisory Committee to the Commissioner of Campaign Finances and Practices. Special thanks are in order for the Montana Association of Clerks and Recorders whose President, Bonnie Miller (Powell County) and the Committee composed of Merrill Klundt (Yellowstone County), Joyce Lippert (Big Horn County), Darlene Hughes (Ravalli County), Helen Kovich (Lewis and Clark County), and Mary Baker (Teton County), along with Linda Graham from the Office of the Secretary of State, formed the nucleus of the election law drafting group. Other members of the election law drafting group included: Maggie Davis, League of Women Voters Mike Pichette, Montana Democratic Party; Janelle Fallon, Montana Chamber of Commerce; Commissioner John Hanson and Jack Lowe, Campaign Finances and Practices; John Bell; Marj Bell; and Doris Eudaily. A harder working group of individuals is difficult to imagine. Their pains-taking attention to detail and to the nuances of the Montana election administration process were invaluable to the Subcommittee.

Finally, the Subcommittee is in debted to JoAnn Woodgerd for her expert assistance throughout the study and drafting process. Without the benefit of JoAnn's vast knowledge of and personal experience with election laws, the Subcommittee's task would have been much more difficult.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. The Subcommittee on State Legal Services and Election Laws recommends that the 1979 Montana Legislature enact a bill to generally revise the laws relating to elections.

2. The Subcommittee on State Legal Services and Election Laws finds that there may be constitutional problems with the current method of appointment of the Commissioner of Campaign Finances and Practices and recommends that the 46th Montana Legislature work with the Governor during the legislative session to develop legislation that would:

   (a) provide for a 6 year term of office for the Commissioner of Campaign Finances and Practices instead of the current 5 year term;

   (b) provide for a method of appointing the Commissioner of Campaign Finances and Practices that would insure proper authority and eliminate possible constitutional problems; and

   (c) clarify the existing statutes to insure that the individual selected to serve as Commissioner of Campaign Finances and Practices may not serve as the Commissioner longer than six years and prohibit the individual from being a candidate for office for a period of five years after serving as Commissioner.

2. The Subcommittee, further, recommends that:

   (a) the term of office of the current Commissioner of Campaign Finances and Practices be extended to January 1981 to allow for the orderly transition to a six year term of office; and

   (b) the current Commissioner of Campaign Finances and Practice not be allowed to succeed himself.

INTRODUCTION

The need to study, reorganize, and substantially revise Montana election laws has been a matter of considerable concern to the last several legislatures. Report No. 24 of the Montana Legislative Council in 1968, in its analysis of municipal elections, recommended that "more detailed study of all types of elections and alternatives should be made prior to changing those election procedures." As a result of the 1968 study, a minor revision of election laws was effected in 1969. However, there had been no substantial detailed followup study of the entire election laws -- their problems and possible solutions.

In 1973, an interim study by the Subcommittee on Constitution, Elections, and Federal Relations recommended extensive work on code revision to solve the problems associated with laws governing elections. The 1973 study outlined widespread problems with the existing election code that could only be rectified with sweeping changes in election laws--changes designed to cut down and consolidate the law, provide for uniformity in election procedure, and provide administrative channels for solving election problems before they occur. The changes recommended by the Subcommittee were designed to solve the numerous problems plaguing Montana election laws, and to contribute to greater voter turnout and lower overall election costs. The following measures were recommended in 1973 for further detailed study:

(1) Consolidate all election codes into one title and organize them topically;

(2) Consolidate all regular local elections including municipal, county, school district, and other district elections;

(3) Establish a statewide election administration (probably in the office of the Secretary of State) with legal authority to promulgate administrative regulations for conducting elections and to provide authoritative guidance and answers for local problems.

(4) Pare to a minimum the administrative detail contained in the election codes and allow these details to be determined administratively.

The 44th Legislature adopted HJR 24, which requested the Committee on Priorities to appoint a select committee to study, reorganize, and revise Montana's election laws and election procedures. The study was not among those selected for interim work by the 44th Legislature.

The Legislature addressed election law reform again in 1977. The 45th Legislature recognized that:

(1) except for the recodification by the 41st legislative assembly of Montana, the election laws of Montana have not undergone substantial revision since 1921;

(2) the state of the election process has changed considerably and many new questions concerning the election process have arisen since 1911;

(3) lacking a substantial revision and faced with the need to answer questions concerning the election process, a piecemeal approach towards election legislation has resulted;

(4) the piecemeal approach has not satisfactorily answered all questions and further has directly contributed to the greater confusion of the election process;

(5) there now exists a system of election law not sufficient or totally lacking in the provision of uniform control over elections; and

(6) there is a need for a state law creating a uniform system for all elections in Montana.

On March 22 1977 the 45th Legislature adopted House Joint Resolution No. 14 which requested that the Committee on Priorities "give high priority to a study of all laws pertaining to elections in the State of Montana and to the preparation of a revised code of election law." The resolution further stipulated that the study committee request assistance from state and local election officials in conducting its study. The Committee on Priorities assigned these tasks to the interim subcommittee on State Legal Services and Election Laws. The Subcommittee requested the assistance of the Montana Association of Clerks and Recorders in the preparation of a revised code of election laws. The Association appointed a Committee of 5 clerk and recorders from representative counties, both large and small, across the state. This group of local election officials together with representatives from the offices of the Secretary of State and the Commissioner of Campaign Finances and Practices formed the nucleus of the group assisting the Subcommittee in its assigned tasks.

SUBCOMMITTEE DELIBERATIONS

In August 1977, the Subcommittee met for the first time, elected officers, and approved a detailed study plan for election code revision. After reviewing the work of previous election law studies and related legislative work on election reform, the Subcommittee instructed its staff to prepare the first draft of a revised, unified election code using the report from the interim study by the Subcommittee on Constitution, Elections and Federal Relations and the 1973 recommendations relating to: (1) code consolidation; (2) consolidation of local elections; (3) statewide administration; and (4) simplification of the election code. This constituted a major point of departure for the study and established a basic set of initial bill drafting instructions.

In addition, the Subcommittee instructed staff to use the basic outline developed by the Code Commissioner for Title 13 (Elections) of the proposed Montana Code Annotated as the initial organization scheme of the first draft of a unified and revised election title. The Subcommittee was fortunate to be able to undertake their work concurrently with the recodification of all Montana laws. The recodification work on the proposed Title 13 was substaintially completed prior to the Subcommittee's work on the revised election code. Thus, the Subcommittee was able to save valuable time by building upon the foundations prepared by previous legislative studies and the ongoing recodification project. The review of existing election law as reorganized and modernized, without substantive change for the proposed Title 13 of the MCA, pointed out clearly the need for major overhaul. In order to remedy all of the inconsistencies within Montana's election code, the Subcommittee believed a revision was needed.

The Commissioner of Campaign Finances and Practices agreed to have an advisory committee work on the initial draft of proposed amendments to the election laws relating to campaign finances and practices. This advisory committee prepared draft legislation that was subsequently reviewed by the Subcommittee as part of their study under House Joint Resolution No. 14 and incorporated in the revised election code recommended by the Subcommittee.

The Subcommittee assigned the task of reviewing the first drafts of the revised election code to three subcommittee members, who in consultation with local and state election officials and, together with persons interested in election laws formed the election law drafting group that performed the major "mark up" of the proposed legislation. This election law drafting group met three times: each

time working for long hours to hammer out each new draft following their section-by-section review of proposed legislation. In all the proposed legislation went through five drafts that were reviewed first by the election law drafting group and then brought before the entire subcommittee for review, comment, recommendations and final "action."

On August 4, 1978, the Subcommittee met for their final deliberations and unanimously approved legislation to generally revise, reorganize and update Montana's election laws. The recommended legislation contained in this report culminates more than 10 years of sustained legislative work aimed at improving, restructuring, and streamlining the legal framework for the election processes in Montana, that have remained substantially unattended for nearly 58 years. This effort has been long over due.

The unified, revised election code prepared and recommended by the Subcommittee attempts to meet the following ideal standards:

1. that it is clearly written in laymen terms;

2. that it is arranged in a logical, orderly manner;

3. that it is concise;

4. that it clearly delineates authority and provides uniformity;

5. that it insures that the election system is neutral;

6. that it details a system that is administratively feasible; and

7. that it is sound and complete.

The major features of the proposed election code are discussed in the remainder of this report. The recommended legislation appears in its entirity, as Appendix C to this report.

The Subcommittee decided not to accept the recommendation of the Commissioner of Campaign Finance and Practices to alter the method of appointing the Commissioner. The Subcommittee did not include language in the recommended legislation to revise Montana's election laws concerning the appointment of the Commissioner of Campaign Finances and Practices. The Subcommittee agreed that there may, in fact, be constitutional problems with the current method of appointment of the Commissioner. (see Appendix A)

However, the Subcommittee did recommend that the 46th Legislature rectify the identified problems by working with the governor during the legislative session to develop legislation that would:

1. provide for a 6 year term of office for the Commissioner of Finances and Practices instead of the current 5 year term;

2. provide for a method of appointing the Commissioner of Finances and Practices that would insure proper authority and eliminate possible constitutional problems;

3. clarify the existing statutes to insure that the individual selected to serve as Commissioner of Campaign Finances and Practices may not serve as the Commissioner longer than six years and to prohibit the individual from being a candidate for office for a period of five years after serving as Commissioner.

The Subcommittee further recommended that such legislation extend the term of office of the current Commissioner of Campaign Finances and Practices to January, 198[illegible] to allow for the orderly transition to a six year term of office and to stipulate that he <u>not</u> be allowed to succeed himself.

"...th[illegible] of elections is to determine and [illegible] the consent of the governed and unless all who [illegible] participate or have their votes accurately [illegible], [illegible] fulfill purpose."[1]

TOWARDS A REVISED ELECTION CODE

Elections are the touchstone of democratic government. They provide for the mantle of popular sovereignty. Citizens may use the leverage of elections to demand responsiveness and responsibility from public officials.

Elections and the individuals who administer them require coordination. They key to the successful conduct of elections is a well-thought out statutory framework that recognizes that literally hundreds of small but separate tasks must be performed correctly and in sequence in order to conduct a proper election. Each of these tasks, regardless of size, if neglected or improperly performed as scheduled may lead to serious election day disorder. The bill recommended by the Subcommittee is designed to assist local and state election officials in avoiding common difficulties that have been associated with elections in Montana.

In preparing the draft legislation the Subcommittee attempted to integrate legal and procedural considerations with policy, administration, and technological considerations that relate to the preparation for, and proper conduct of, elections. The ultimate goal was to avoid adverse consequences in election procedures that contribute to disenfranchisement of voters, delays in the counting of ballots, deterioriation of voter confidence in the electoral process, and substantial increases in election related costs.

The Subcommittee's findings reaffirmed those of previous study groups. The statutory framework for the election process has not fully met the expectations of the political jurisdictions concerned nor of the citizens involved. Current law creates confusion concerning state and local responsibility and organization for elections. Local election officials are hampered by restrictive legislation that provides limited administrative alternatives. Montana's current election code is unbelievably long and complex. There appears to be almost infinite detail concerning every phase of the process. Many legal difficulties stem from this basic fact of excessive detail which provides little administrative discretion either prior to an election or even in the midst of election difficulties.

It should come as no surprise that many election officials are unaware of some election law provisions or that some provisions are simply not followed. Furthermore, many provisions of existing election law were often written with little regard for operating requirements, cost factors, or realistic voting procedures.

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1. Marie M. Barber, "Improving the Election Process: A Three-Part Platform," National Civic Review, Vol. 66, No. 2 (February, 1977)

These factors must be systematically considered in the process of formulating an integrated, comprehensive and truly modernized system of election administration and the requisite statutory framework. The Subcommittee identified those factors which would contribute to improvement in the efficiency, equity, and simplicity in the election process.

The Subcommittee recognized the need for greater flexibility in our state election laws to meet the variety of circumstances may arise under the general provisions of the law. Another need recognized by the Subcommittee in the preparation of the revised election code is the need for legislative consistency.

Simplification of the Election Codes

A major goal of the proposed bill is to pare to a minimum the administrative detail contained in the election code and to allow these details to be determined administratively. In order to insure the maximum feasible degree of administrative discretion while maintaining integrity in the election process, the Subcommittee attempted to eliminate excessive detail throughout the proposed code. The Subcommittee bill attempts to clear the clutter of inflexible detail from Montana's election laws - details which many officials often ignore, because they are either ambiguous, contradictory, or just too complicated to be comprehensible.

Throughout the proposed election code there has been a conscious effort by the Subcommittee to streamline and ease the administration of elections. The Subcommittee sought to eliminate ambiguous requirements or provisions that can not be effectively enforced and to eliminate cumbersome management systems that invite error, inefficiency, and contribute to a lack of public confidence in the integrity of the election process.

The value of this approach is three fold:

1. From the viewpoint of the voter, a simplified election process means enhanced understanding and confidence in the system.

2. For the elections administrator, a simple system means greater accuracy and lower costs.

3. For the candidate, simplification of the system means understanding and compliance with requirements imposed, as well as confidence that the electoral results will accurately count the vote.

Code Consolidation

The proposed code bill consolidates most of the laws relating to elections into a single title. The work completed by recodification consolidated in Title 13 (Elections) the old R.C.M. Titles 23 and 37. The remainder of the MCA contains a substantial number of election provisions for various specific elections, which were not incorporated into Title 13. The Subcommittee bill attempts to identify and amend all these specific elections so that the procedures and provisions of Title 13 apply. Only school law in Title 20, MCA, remains exempt from the provisions of Title 13. However, the administration of school elections must conform to the methods and uniform procedures outlined in Title 13.

Regardless of the political jurisdiction, the manner of conducting elections in a county is substantially the same. Uniform procedures and uniform deadlines are provided to standardize those aspects of election administration that are routinely done to insure consistent application of election law. Responsibility for conducting elections is fixed with a local election adminitrator and the Secretary of State.

Consolidation of Local Elections

The proposed revised election code consolidates local government elections -- municipal, county, and special district in odd-numbered years. Currently counties hold their elections in even-numbered years in the fall; city-manager cities hold their elections at the same time as counties and the vast majority of cities and towns in Montana hold Spring elections. The legislation recommended by the Subcommittee would establish a new schedule for elections. All general elections, except school elections, would be held in November. There would be a general election held each year. The even-numbered year elections would be held for national offices, state offices, state legislators, district court judges, multi-county district offices (such as the Public Service Commission), and any special district offices that require annual elections. In odd-numbered years elections would be held for the local government offices. The consolidation of local elections is aimed at increasing voter turnout and separating state and national issues from local issues. If all were under scrutiny at the same time it was hoped that interest in local issues and candidates would be heightened.

Central Administration

The Secretary of State's role in election administration would be clarified by the proposed revised election code. In allowing greater flexibility and eliminating administrative detail the obligation for developing rules and standards would be fixed with the Secretary of State. In addition, the duties and reponsibilities of the Secretary of State would be specified.

The lack of a single unified system and a final authoritative decision-maker makes it difficult to adopt consistant policies for dealing with the administration of elections. The Subcommittee bill rectifies this problem by providing for a single chief administrative officer at the state level and a parallel counterpart -- the county election administrator -- at the local level. The same logic applies to local level authorities as applies to state level authorities.

Political participants will be able to easily identify the individual and office charged with final authority to make decisions on election administration questions. There will be less opportunity for confusion and conflicting policy interpretations.

State election laws no matter how carefully drawn are not always clear. Some problems are never adequately anticipated when drafting. Coupled with this is the extremely short time frames in which elections are conducted. In the conduct of an election, there is no tomorrow. There must, therefore, be a mechanism by which authoritative administrative decisions can be made. It is unreasonable to expect 56 counties to solve each of these problems as they come up in an election.

The Subcommittee bill provides for administrative remedies for election problems that currently do not exist in state law. The Secretary of State is authorized to provide rules and intepretations to resolve common disputes as they occur and develop remedies for identified election problems.

In essence then, the bill provides a statutory framework that establishes well defined responsibilities and provides the authority to meet these responsibilities. The intent of the Subcommittee was to draft legislation that will permit sufficient flexibility for election officials to meet specific local requirements and make use of available resources in an effective and efficient manner while not acting in conflict with state election standards.

Additional Recommended Changes

In order to simplify, clarify, and make all procedures as nearly uniform as possible while providing optional procedures, where needed, to allow flexibility in counties of different size and geographic makeup; the proposed bill updates major terminology, consolidates redundant sections, and repeals numerous obsolete sections. The Subcommittee bill substantially amends Title 13 (Elections) and brings election procedures in other Titles into conformity. The following outlines the major changes in election law recommended by the Subcommittee and incorporated in the recommended legislation.

** General Provisions

The Subcommittee bill:

-- provides uniform method of public notice that allows local election officials to chose the best combination of newspaper and electronic medium available in the county. [Section 6, p. 10]

-- authorizes the Secretary of State to issue written directives and advisory opinions. [Section 12, p. 14]

-- requires that the Secretary of State provide a manual for election judges and hold workshops for elections administrators in training methods. [Section 13, pp. 14-15]

-- places greater emphasis on the training of election workers. [Section 13, pp. 14-15]

-- stipulates that the county election administrator will perform all election duties for all elections in the county, except school elections unless required by the school district, and provides the county clerk and recorder is the election administrator unless the county government body designates or appoints another official. [Section 14, p. 15]

-- contirues the current practice that counties must pay for the costs of conducting state and county elections and requires other political subdivisions participating in an election to pay a proportionate share of the cost of the election as determined by the county governing body. [Section 16, p. 15]

[illegible] Registration of Electors

The Subcommittee bill provides that mail registration forms be "widely and conveniently" available in the county; that they be mailed within 15 days of signing; and that registration is canceled if the notification of registration card cannot be delivered. (Section 28, p. 277].

[illegible] Election Procedure

The Subcommittee bill:

-- clarifies registration cancellation and challenge procedures and gives an elector challenged as not being a resident time to respond before cancellation.

-- requires that an elector change voting precinct when he changes his residence to another precinct; that the elector must vote in the precinct of residence; provides a method to vote in only one election after change of name or residence; and provides the elector with a method to submit the change to the election judges before voting.
[Section 40-43, pp. 38-41]

-- allows minor political parties to be represented by deputy registrars and election judges. [Section 54, p. 49]

-- allows for all precinct workers (election judges and chief election judge) to be appointed in each precinct with flexibility in the number of election judges that are required. [Section 54, p. 42]

-- sets a specific time for political parties to submit lists for appointment of election judges and provides that all political parties that are eligible to participate in primary elections may submit lists. [Section 54, pp. 49-50]

-- requires all candidates to file with the county election administrator or the Secretary of State, except for school district trustees. [Section 63, pp. 56-58]

-- moves the final day for filing for office to 50 days before the primary; provides flexibility for ballot printing and permits absentee ballots to be printed earlier than existing law. [Section 63, p. 58]

-- allows different colored ballots for nonpartisan ballot at primary election. [Section 69, pp. 63-65]

-- provides that when a partisan candidate dies or withdraws 30 days or more before a primary, the political party may choose a replacement; however, if no one is nominated by a party because of death or withdrawal 30 days or less before a primary, the party must choose a candidate after the primary. [Section 75, 77, pp. 69-72]

-- requires that independent candidate petition must be 5% of the total vote cast for the successful candidate at last election. [Section 83, pp. 74-75]

-- changes the number of votes needed to qualify a party to participate in a primary to 5% of the total vote cast for the successful candidate for governor in the last election. [Section 86, pp. 77-78]

-- eliminates ballot detail to allow flexibility in solving printing problems by allowing the Secretary of State to prescribe details before each election. [Section 93, pp. 82-83]

-- requires each elector to state correct residence address as well as name when offering to vote and to submit a transfer form if the registration form is not current. [Section 10, p. 98]

-- provides for election judges to take a ballot to a handicapped elector who can come to the voting premises but cannot enter the polling place. [Section 111, pp. 95-100]

-- allows candidates and their supporters to have poll watchers if there is enough room in the polling place. [Section 114, p. 102]

** *Nonpartisan Nomination and Election*

The Subcommittee bill:

-- provides for uniform election procedures for nonpartisan candidates for all levels of government. [Sections 139-149, pp. 121-127]

-- requires that nonpartisan elections be by separate paper ballot or in a separate section on a voting machine or device and allows for them to be separate or on the same ballot with a nonpartisan designation during a general election. [Section 145, pp. 123-124]

-- provides that a primary need not be held in a nonpartisan race if not more than twice the number to be elected file for office. [Section 145, p. 124]

[illegible]

The Subcommittee bill:

-- allows local election administrators the choice and authority to begin counting votes before the polls close and establishes a method to insure election integrity, reconciliation and to prevent disclosure. [Section 150, pp. 127-128]

-- stipulates that the county governing body will canvass the votes but allows the governing body of other political subdivisions to join in the canvass of candidates and issues for the political subdivision. [Section 157, pp. 134-135]

-- requires a detailed record of the canvass including all write-in votes. [Section 157, pp. 136-137]

-- requires reporting of all write-in votes in local and state canvass reports. [Section 167, pp. 142-143]

[illegible]

The Subcommittee bill:

-- clearly differentiates the procedures for a count ordered and close vote recount. [Section 171, pp. 144-146 and Section 174, pp. 147-148]

-- requires tie votes in primaries to be settled by lot [Section 187, p. 158]

-- requires one of the candidates who tied to be appointed in the case of a tie vote. [Sections 188-193 pp. 158-168]

Voting Machines and Devices

The Subcommittee bill:

-- combines the chapter on voting machines with the chapter on election devices to provide a single chapter on voting machines and devices. [Section 194-207, pp. 161-170]

-- sets broad guidelines for the use of voting machines and devices and requires the Secretary of State to prescribe specifics for each type of machine or device used in the state. [Section 196, pp. 162-163, Section 200, pp. 165-166]

-- provides for review and use of new types of voting equipment without changes in the statutes. [Section 198, p. 165]

** *Elections for Federal Office*

-- The Subcommittee bill provides for the special election of United States Representative in certain circumstances. [Section 210, p. 172]

** *Campaign Practices*

The Subcommittee bill:

-- does not revise the method of appointing the Commissioner of Campaign Practices (see Appendix A)

-- clarifies the authority of the Commissioner of Campaign Finances and Practices and restricts it to those election laws relating to Campaign Finances and Practices [Chapters 35, 36, or 37 of Title 13].

-- changes the penalties in the campaign finances and practices act from criminal to civil (see Appendix B). [Sections 244-246, pp. 201-203]

** *Political Parties*

-- The Subcommittee bill requires political parties to file their rules with the Secretary of State and the county election administrator. [Sections 261 and 262, p. 219]

APPENDIX A

REPORT FROM THE COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES APPOINTMENT OF THE COMMISSIONER

APPENDIX A

APPOINTMENT OF THE COMMISSIONER

WHEN THE 1975 LEGISLATURE created and filled the Office of the Commissioner of Campaign Finances and Practices, it took great pains to assure that the position would remain free from the influence of partisan politics. In view of the historical circumstances, that attitude was understandable. But it ignored the constitutional truth that, in matters of law enforcement and administration, total insulation from politics is a difficult thing to achieve. The reasons (legal reasons) for this fact are traceable in part to what we in Montana call Executive Reorganization, in part to general principles of constitutional law, and in part to the peculiarities of the Montana Constitution itself. An extended discussion of these matters is in order, for the changes proposed at this point are among the most significant in this suggested revision of the election laws.

To briefly recapitulate the process set in motion by Senate Bill 76,[1] the Legislature passed a comprehensive law dealing with control and reporting of election campaign financing. They prescribed criminal penalties for its violation. They created the Office of the Commissioner of Campaign Finances and Practices and authorized its salary. They endowed the office with powers of general administration and criminal enforcement. Then a bipartisan committee composed of the majority and minority leaders of both houses selected the individual to serve a five-year term as Commissioner. That term will expire in July of 1980, whereupon another such committee will presumably select another Commissioner. The individual whose term expires may not serve again, nor may he be a candidate for elective office for a period of five years.

Put another way, the 44th Legislature passed a law; it created an office for the purpose of enforcement of that law, then proceeded to fill the office with an individual of its own choosing. Stated even more simply, the Legislature is trying to enforce its own law.

The goal was freedom from the influence of partisan politics. But the noblest of objectives does not justify ignoring the Constitution. The 44th Legislature in the creation of the Office of Commissioner did just that, and there is reason to believe that it cannot ultimately be successful. The constitutional provision involved is that of separation of powers. But the provisions of the Montana Constitution dealing with the executive function and the appointment of

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1 Specifically, §10, ch. 480, laws of 1975; now §23-4785, R.C.M. 1947.

executive officers are worth setting forth verbatim here, for they are also at the root of the problem, and the differences between them and the present appointment process is striking.[2]

> Section 7. 20 Departments. All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 20 principal departments so as to provide an orderly arrangement in the administrative organization of state government. *Temporary commissions may be established by law and need not be allocated within a department.*
>
> Section 8. Appointing power. (1) The departments provided for in section 7 shall be under the supervision of the governor. Except as otherwise provided in this constitution *or by law*, each department shall be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office until the end of the governor's term unless sooner removed by the governor.
>
> (2) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this constitution *or by law whose appointment or election is not otherwise provided for*. They shall hold office until the end of the governor's term unless sooner removed by the governor.

* * * *

A careful study of these provisions reveals only that they are ambiguous as applied to the appointment of the Commissioner. Is the Commissioner an "officer of the executive branch?" Is he a "temporary commission?" Need he

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2 Article VI, §§7,8, Constitution of Montana (1972) (emphasis added)

be allocated within one of the twenty departments,[3] or is the administrative attachment to the Office of the Secretary of State sufficient? Do the provisions excepting officers "otherwise provided for by law" apply to this situation?

We might attempt answers to these questions, but in view of the principle of separation of powers I suggest that they are irrelevant. Regardless of which constitutional pigeonhole into which the office is to fit, there is no way to give it any practical meaning if it is not to exercise the executive power of administering and enforcing the law. Viewed from another direction, the problem is not so much one of *appointment* as of the exercise of powers.

We have no doubt that the legislature may pass such laws as it chooses, or that it may create offices; nor even that it may fill those offices itself, with such persons as it may see fit. The minutes of the 1972 Constitutional Convention appear to bear this out,[4] as does the holding of the

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3 At last count only 19 such departments were in existence. See §82A-104, R.C.M. 1947 (1977 supp.)

4 From pp. 2916-17 of the verbatim transcript on file in the State Law Library of Montana, speaking of what became present Article VI, §8 (appointing power of the governor) (1972):

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I think I've already explained this section. This says, in effect, that the governor shall make the appointment of the heads of the departments, subject to confirmation by the senate. *That is, if their appointment or election or their term is not otherwise provided for by law. So, the legislature, of course, could still create an office, or a board, make it clear it* [sic], *and give it a definite term.* If they do that, well then, that man has the office for that term. Anyone so appointed shall hold office until the end of the term of the governor, unless sooner removed by the govern-

Montana Supreme Court in *State ex rel. Judge v. Legislative Finance Committee*.[5] But the matter of what powers such an appointee may exercise is another question. Administration and enforcement of the criminal law are the paradigm of the executive function[6]--all of which brings us to the subject of separation of powers.

The doctrine originally derived not from any express provision of the Constitution of the United States, but from recognition that our scheme of government is divided into three branches, seeming to imply that each has its proper function which the others are not competent to perform. The conventional phrases "separation of powers" and "checks and balances" are entirely judicial inventions, traceable to the political philosophy of Montesquieu. Modern legal cases on the subject are not common,[7] but the recent

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or. *The deal is that the governor can remove the man unless the legislature bars him from removing the man.* In effect, it's the way it's being done now, as I understand it.

CHAIRMAN GRAYBILL: Very well. You've heard the motion of Mr. Joyce, that when this committee does arise and report on section eight, subsection two, that the same shall be reported and adopted. All those in favor, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, no.

[no response]

CHAIRMAN GRAYBILL: So ordered.

5 168 Mont. 470, 478-79, 543 P.2d. 1317 (1975). See also State ex rel. Public Service Comm'n v. District Court, 107 Mont. 240, 84 P.2d. 335 (1938).

6 If authority is necessary to support this statement, see Buckley v. Valeo, 424 U.S. 1, 140-41 (1976)

7 Springer v. Philippine Islands, 277 U.S. 189 (1928) is the first of any consequence. "Separation of powers" has other ramifications, but the cases cited here deal with the narrower question of legislative-executive relationships. The matter in breadth is discussed in Gunther & Dowling, CASES AND MATERIALS ON CONSTITUTIONAL LAW 555 ff. (8th ed. 1970), and see Buckley v. Valeo, supra.

disputes involving former President Nixon and his papers presented similar questions.[8]

What is implicit in the Constitution of the United States is explicit in Montana's:

> Section 1. Separation of powers. The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.[9]
>
> Section 4. Duties. (1) The executive power is vested in the governor who shall see that the laws are faithfully executed...[10]

Now, while we are dealing here with a question of constitutional law, it is not the sort of constitutional law which is (as, for instance, civil-rights matters) directly transferable from the Federal sphere to the state, nor for that matter from the law of any other state to the law of Montana. No other precedent on the point is binding. The existing precedents of the Montana Supreme Court are not particularly instructive,[11] seeming to state only that while one branch of government should not exercise the powers of another, there is a sort of "rule of reason" which keeps

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8 Nixon v. Adm'r of General Services Administration, ___U.S.___, 97 S.Ct. 2777 (1977)

9 Article III, §1, Constitution of Montana (1972)

10 Article VI, §4, Constitution of Montana (1972)

11 See, e.g., Board of Regents v. Judge, 168 Mont. 433, 451, 543 P.2d. 1323 (1975); State ex rel. Judge v. Legislative Finance Committee, 168 Mont. 470, 543 P.2d. 1317 (1975); State ex rel. Public Service Comm'n v. District Court, 107 Mont. 240, 84 P.2d. 335 (1938)

them from being absolutely and exclusively distinct, and that individual cases must be determined in the light of their individual facts.

As stated, the precedents of other jurisdictions are not binding upon our courts. But they are highly suggestive, for there exist at least three recent cases involving facts strikingly similar to those surrounding the appointment of the Montana Commissioner where courts have found such a mode of appointment to run afoul of the constitutional principle of separation, or at least to be inconsistent with the executive powers granted by the particular legislation.[12] The point of all three is that a legislative appointee may not enforce the law. If the Campaign Practices Act cannot be enforced, it was a useless act, and enforcement of the election laws is back where it was before 1975. Alternatively, if the office is to be "executive" in nature and function, the Commissioner must be appointed by the Governor. Political implications aside, this appears to be mandatory if the office is to be effective, since the practical legality of the matter is that any defendant in a criminal action brought by the Commissioner has a good defense based on the separation-of-powers provision. This has been and will continue to be a serious consideration which enters into any decision the office might make as to the desirability of a prosecution. It is for these reasons that the proposed revision of §23-4785, R.C.M. 1947, provides for appointment of the Commissioner by the Governor (§ 13-37-102).

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12 Walker v. State Board of Elections, 359 N.E.2d. 113 (Ill. 1976); Guidry v. Roberts, 331 So.2d. 44 (La. 1976); Buckley v. Valeo, 424 U.S. 1 (1976). These cases have subjected the legislation in question to what might be called "strict scrutiny," and ambiguities have been resolved in favor of the principle of separation.

Does this mean that it is not possible to create an election-law enforcement agency that is free from political influence? Must it depend for its existence on the good-will of the very people it is supposed to be regulating?

Probably not, but the solution does require some ingenuity. The proposed revision (page 2, §13-37-102[3]) is based essentially on an idea originating in the circumstances surrounding the case of *Humphrey's Executor v. United States.*[13] There a Federal Trade Commissioner had been appointed by a President with the advice and consent of the Senate, but with a certain restriction: Humphrey was to hold office for a specified term and was, under the statute, removable only for cause. The Supreme Court, qualifying an earlier and apparently inconsistent case,[14] held that the restriction upon the President was valid in view of the particular duties of the Commission and the need for insulation from politics. Therefore Humphrey, like Arthur Burns, could not be removed at the President's whim. The case has been followed in the Federal Courts and in state jurisdictions.[15] In view of the command of Article IV, §3 of the Montana Constitution ("The legislature ... shall insure the purity of elections and guard against abuses of the electoral process") and the relative ambiguity of the sections on the appointing power, together with the demonstrable demand for insulation from political caprice, there is reason to believe it would be followed in Montana. At least it provides a

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13 295 U.S. 602 (1935)

14 Myers v. United States, 272 U.S. 52 (1926)

15 e.g., Lunding v. Walker, 359 N.E.2d. 96 (Ill. 1976). Cf. Welch v. Key, 315 P.2d. 154 (Okla. 1948), and see 2 U.S.C. §437(c), dealing with the appointment of the Federal Election Commission in response to the Court's decision in Buckley v. Valeo, 424 U.S. 1 (1976)

decent chance, which is more than we have at the present time. If this proposal is less than the perfect solution to the problems of politics and favoritism in appointment, it is the best solution that the Montana constitution will permit.

Still there are means to assure that the Commissioner, once appointed, will not be inclined to favor one political faction over another. While the Governor is free to appoint whomever he will, the appointment requires confirmation by a majority of the membership of the entire Senate.[16] The possibility that the Commissioner may be removed by impeachment, a lengthy and difficult process, is retained (§13-37-105). On the other hand, he may be removed by the Governor only for stated causes, and the sufficiency of those causes is subject to review in the courts should a dispute arise. The difficulties inherent in the removal of a Commissioner mean that there is less temptation for him to overlook peccadilloes on the part of one faction or another. If all this appears to make the Office of the Commissioner a permanent part of the Montana political and governmental scene, one should keep in mind that the act itself creating the office can still be repealed by a mere majority of the Montana Legislature. This introduces another check into the performance of the office, namely that of public opinion.

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[16] The original suggestion was that confirmation require a two-thirds vote of the entire senate. It might not be impossible for a single party to achieve control of both the governor's office and two-thirds of the Senate, but it is unlikely. This has happened four times in Montana's history, but has not occurred since the 30th Legislative Session of 1947. See LYNCH, MONTANA'S LEGISLATURE THROUGH THE YEARS 13, 20 (1977). The Commissioner's advisory committee was of the opinion that a two-thirds majority would be too difficult to ever achieve.

In addition, changes are proposed in the length of term (§§13-37-102[3] and 13-37-103). The choice of a six-year term, rather than five, means that the end of a term will not normally coincide with the election of a governor, and that at the end of a term the legislature will always be in session for confirmation. The prohibition on the Commissioner being a candidate for public office is retained. Although it was suggested by the advisory committee that a Commissioner be limited to two terms, the present draft leaves open the possibility that a commissioner may succeed himself twice. We feel that the likely effects of this are the (1) a Commissioner will be encouraged to do a fair and impartial job, since by doing so he might stay in office if he wishes, (2) with that possibility open, there is less temptation to use the office as a shout-term springboard to something else, and (3) it is highly unlikely that the same governor could appoint a commissioner more than twice during his term(s) as governor. The Governor could re-appoint the present Commissioner, but the only real constraint on his descretion is the sense of the senate.

Finally, we propose that the amendment be made effective upon passage and approval. The effects of this are twofold: (1) normal vacancies will occur during the legislative session, and require immediate confirmation. There will not normally be an opportunity to appoint someone who is not acceptable to the Senate and who might serve for as long as two years before confirmation or rejection. (2) Normal appointments will not, as they do now, occur between the June primary and November general elections. This will afford an incoming Commissioner and his staff a short period of time to become accustomed to the operation of the office, and aviod any changes in policy between primary and general elections.

IN SUMMARY, then, the proposed revision of the sections

dealing with appointment provide that the Commissioner shall be appointed by the Governor, with the confirmation of the Senate as is usual in such matters. He is not a "department head," but exactly where in the scheme of executive reorganization he will fall is probably only a matter of taste. Administrative attachment to the Governor's office would make good organizational sense, but the present attachment is sufficient (§2-15-411). The appointment will be for a definite term, designed not to coincide with the election of the Governor. The Commissioner will be removable by the Governor for specified causes (malfeasance, incompetence, neglect of duty) and the sufficiency of those causes will be subject to judicial review. If, at the time of an appointment of a Commissioner, the Legislature is not in session, an appointment is effective until ratification by the Senate at the next session--but generally the Senate will be in session at such times. It is our belief that such a mode of appointment will allow the office to fulfill the executive function of the enforcement of the campaign finance laws. The nature of that function and its proposed revision is discussed in Appendix B.

APPENDIX B

REPORT FROM THE COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES PROSECUTORAL POWERS OF THE COMMISSIONER

APPENDIX B

PROSECUTORIAL
POWERS OF THE COMMISSIONER

THE CAMPAIGN FINANCES AND PRACTICES ACT is, by nature, a criminal law. Violation of any provision is a misdemeanor. Certainly it is necessary, if alws are to be meaningful, to provide some means to discourage their violation; a law without a penalty is mere advice. One supposes that the choice of criminal sanctions in this case was as much a matter of legislative habit as conscious choice. Now many of the provisions of the old "corrupt practices act" are merely traditional crimes of violence, intimidation, fraud, theft, or bribery, being differnet only in that they are described in the context of the election process In these matters a criminal penalty fits comfortably (and it might also mentioned that violation of these provisions is a rare thing). On the other hand, the provisions of the Campaign Fiannce Act dealing with the use of money (contributions, expenditures, reporting) are fundamentally different: they do not prohibit what lawyers call *mala in se*. If one thinks of them as crimes at all, it must be as "white-collar" crimes. The criminal penalties of the Campaign Practices Act, in fact, may not have been the best choice for its enforcement. There are alternatives, and those are the subject of this discussion.

Within the Campaign Practices Act itself, there are references, in addition to the criminal enforcement powers, to a "civil action:" "[T]he Commissioner may initiate a civil or criminal action...;"[17] "Whenever the Commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution...;[18] "The Commissioner ... may prosecute ... any criminal or civil action...'[19] Finally, "In any action brought under the election laws of this state, the appropriate district court may enjoin any person to prevent the doing of any prohibited act or to compel the performance of any act required by the election laws."[20]

The curious thing about this cryptic reference to a "civil action" is that the action itself is not described. The general procedure for the contest of elections (§§23-4763 et seq., R.C.M. 1947) is certainly a civil one, though it is by no means clear that the Commissioner has the power to bring such an action. The equity powers granted to the district courts are civil took and it is possible to imagine this power to mandate or enjoin as a useful tool; for instance, to compel a candidate or committee to file a late report, or to file an accurate report when there is reason to believe that one already filed is less than truthful. While there are circumstances under which this might be useful (and it has been considered), there are also inherent weaknesses. The first is the time problem: with many reports due a mere five or ten days before an election, even a very speedy lawsuit might not produce results in time for the voters to learn anything of value. Secondly, assuming no

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17 §23-4787(2), R.C.M. 1947
18 §23-4788(1)
19 §23-4787(3)
20 §23-47-108

pressing circumstances of time, there is some question as to whether a court would exercise its power to mandate or enjoin. Equity traditionally takes jurisdiction only when there is not a "plain, speedy and adequate remedy at law." In most of these imaginary situations, there is such a remedy--the criminal one.[21] Finally, it might be difficult to produce the desired information, since the truthful testimony by its nature--in view of the criminal sanctions--might tend to incriminate the defendant.

What the 44th Legislature may have meant by "civil action" is at this point purely speculative. What we intend to propose here is that the "civil action" mentioned in the Act be actually created and described--a statutory tort.

Briefly, the suggestion is that the contribution, expenditure, and reporting provisions of the Act be enforceable by a civil action based on knowing or negligent violation, and that those violations be punishable by a civil fine and no more. The older parts of the "corrupt practices act," *mala in se*, would remain misdemeanors. The proposed language is very nearly self-explanatory. While the action could be brought for negligent violation, in actual practice

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21 The traditional view is that equity will not enjoin violation of the criminal law. In 42 Am. Jur.2d *Injunctions* §39 (1969) it is stated with confidence but little authority that a public agency, when seeking a statutorily authorized injunction to enforce a public law, need not demonstrate the traditional prerequistes of equity jurisdiction. See also Montana Milk Control Board v. Rehberg, 141 Mont. 149, 165, 376 P.2d. 508 (1962). However, there remains the conceptual difficulty with requiring a civil defendant to admit what might subject him to ultimate criminal liability. Cf. Marchetti v. United States, 390 U.S. 39 (1968).

such matters are likely to be resolved by negotiation (as indeed they always have been). The actual amount of a fine is left to the judge's discretion, according to his perception of the gravity of the offense. Under the language as crafted, this action is the exclusive remedy and violations of contribution/expenditure/reporting provisions would not be subject to criminal penalty. They would, however, still be ground for contest of an election or forfeiture of nomination or office.

The plan suggested here is not entirely original with us, but is taken substantially from the law of California.[22] One major difference is that the law of California allows any citizen to bring the action (only requiring him to complain first to the Fair Political Practices Commission). The draft suggested here leaves enforcement solely to the Commissioner and the County Attorneys. This is so because of expressed fears of harassment suits against vulnerable candidates, although the California experience does not appear to bear out fears of groundless suits.

Removal of the criminal sanctions from the contribution, expenditure, and reporting requirements of the Act follows a a trend current in other jurisdictions: civil enforcement is the rule. It may reflect the thought that, since the conduct of campaigns is supposed to be a gentlemanly business, the law's enforcement should be too. Conduct can be deterred and miscreants punished without the stigma of a criminal conviction. It may seem at first glance that the effect of such a change would be to reduce the Commissioner's power somewhat, but actually the reverse is probably true.[23] Furthermore, the

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23 It is certainly true. When one compares the procedural disadvantages inherent in the criminal process--unanimous jury, proof beyond a reasonable doubt, nonavailability of

amendment is easy to effect, requiring only the addition of three new sections at the end of chapter 37 to the draft recodification already prepared by the Legislative Council. Three present sections (see Page 6) prescribing criminal penalties for violation of contribution laws will be suggested for repeal. The present section dealing with corporate contributions, which incidentally will be entirely rewritten, will likewise be enforceable by the civil penalty.

It has been suggested that the criminal-penalty provisions and the present "powers of the Commissioner" sections (§§23-17-103 and 23-1786, R.C.M. 1947) be amended to remove entirely the Commissioner's power to initiate criminal proceedings. After reflection it was felt better to leave the possibility open that the Commissioner could bring such a prosecution for violation of the older corrupt practices statutes, on the theory that county attorneys have been notably reluctant to bring them in the past.[24] Under the proposed draft, the possibility remains open that the Commissioner could resort to the criminal process, but that possibility should be considered remote.

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compelled testimony of the defendant, and all the common-law baggage that goes with due process of law--the civil process seems by far the more attractive from the enforcement standpoint. It would also certainly be cheaper.

24 Perhaps curiously, there is no reported case in Montana of a criminal proceeding under any of these statutes. Either there have been no violations, or no prosecutions, or no appeals. There are several instances of civil proceedings --suits brought by disgruntled losers. See, e.g., Kommers v. Palagi, 111 Mont. 293, 108 P.2d. 208 (1938). Kommers indicates that (1) the ostensibly criminal statutes do imply a civil cause of action, and (2) there is no inherent right to a jury trial in such a matter.

As mentioned before (see note 21 above), in order to insure maximum effectiveness of the civil remedy, it is necessary to make certain that violations of the provisions subject to it are not capable of being crimes. For that reason, we propose deletion (repeal) of the following scattered sections and subsections from the current code. The numbering system is that employed by the Council's draft recodification.

13-35-207. Deceptive election practices.

* * *

(3) Knowingly submits a false report or deliberately fails to include information in a report required by this title;

13-35-223. Illegal contributions. Any person who accepts a contribution prohibited by this title, who makes a contribution in excess of the amounts specified in this title, or who makes a contribution in any manner other than provided in this title is guilty of an illegal practice and is punishable by a fine not to exceed $1,000, imprisonment in the county jail for a term not to exceed 6 months, or both, for each separate violation.

13-35-229. Proceedings against corporations. In like manner as prescribed for the contesting of an election, any corporation organized under the laws of or doing business in the state of Montana may be brought into court on the ground of deliberate, serious, and material violation of the provisions of this title. The petition shall be filed in the district court in the county where the corporation has its principle office or where the violation of law is averred to have been committed. The corporation, upon conviction, is punishable:

(1) if it is organized under the laws of this state, by a fine not to exceed $10,000, by cancellation of the certificate of incorporation, or by both fine and cancellation; or

(2) if it is a foreign corporation, by a fine not to exceed $10,000, by enjoining the corporation from further transacting business in this state, or by both fine and injunction.

APPENDIX C

RECOMMENDED BILL TO GENERALLY REVISE, UPDATE, AND MODERNIZE MONTANA'S ELECTION LAWS

BILL NO.

INTRODUCED BY

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON STATE LEGAL SERVICES AND ELECTION LAWS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO ELECTIONS; REPEALING SECTIONS 7-2-4504, 7-2-4605, 7-3-4263, 7-3-4328 THROUGH 7-3-4333, 7-3-4341 THROUGH 7-3-4352, 7-5-301 THROUGH 7-5-303, 7-5-311, 7-5-2211 THROUGH 7-5-2222, 7-5-4211 THROUGH 7-5-4225, 7-5-4407 THROUGH 7-5-4409, 7-6-4433, 7-6-4435, 7-7-2230 THROUGH 7-7-2236, 7-7-4228 THROUGH 7-7-4234, 7-13-2223, 7-13-2224, 7-13-2241, 7-13-2250 THROUGH 7-13-2253, 7-13-2257, 7-13-2324, 13-1-105, 13-2-101, 13-2-111, 13-2-113, 13-2-121, 13-2-204, 13-2-303, 13-4-106, 13-4-204 THROUGH 13-4-206, 13-10-101, 13-10-206, 13-10-207, 13-10-[illegible], 13-10-304, 13-10-312 THROUGH 13-10-321, 13-[illegible] THROUGH 13-11-103, 13-12-103 THROUGH [illegible], 13-12-211, 13-12-213, 13-13-[illegible] THROUGH [illegible], 13-13-202, 13-13-237, 13-13-[illegible], [illegible], 13-13-303, 13-13-308, 13-14-101 THROUGH [illegible] THROUGH 13-14-204, 13-14-206, [illegible], 13-17-205, 13-17-207, 13-17-30[illegible] THROUGH [illegible], 13-17-307, 13-17-401 THROUGH 13-17-404, 13-18-101 THROUGH 13-18-106, 13-18-201 THROUGH 13-18-[illegible], 13-35-212, 13-35-216, 13-35-219, 13-35-222 THROUGH 13-35-224, 13-35-229, 13-35-230, 13-35-232, 20-20-412 THROUGH 20-20-414, 85-7-1701, 85-7-170[illegible] THROUGH 85-7-1709, 85-7-1711, 85-7-1713, AND 85-9-423, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily is not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a ~~declaration of~~ petition for nomination, certificate of nomination, or acceptance of nomination for public office as required by law, but does not include a candidate for national office who [illegible] provided [illegible] nomination;

(b) for the purpose of chapter 35, an individual who has publicly announced his intention to seek nomination or election to public office by write-in vote and who has received contributions or made an expenditure or has given an authorization to another person to receive a

contribution or make an expenditure for the purpose of supporting his nomination or election.

~~(3) "City" means any incorporated city or town.~~

~~(4) [illegible] county commissioner.~~

~~(5)~~ (3) (a) "Contribution" means:

~~(a)~~ (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

~~(b)~~ (ii) a transfer of funds between political committees;

~~(c)~~ (iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee, but

(b) "Contribution does not mean:

~~(d)~~ (i) ~~not~~ services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a political committee; or

(iv) filing fees paid by the candidate.

~~(6) "Council" means any municipal council or commission.~~

~~(7)~~ (4) "Election" means a general, special, or primary election held ~~to choose a public officer or submit an issue for the approval or rejection of the people~~ pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties.

(6) "Elector" means an individual qualified and registered to vote under state law.

~~(8)~~ (7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election, but "expenditure"

(b) "Expenditure" does not mean:

~~(a)~~ (i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(5)~~ (3), or

~~(b)~~(i) payments by a candidate for his filing fee or for personal travel expenses, ~~or for~~ food, clothing, lodging, or personal necessities for himself and his family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of an communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

~~(9)~~(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state.

~~(10)~~(9) "Individual" means a human being.

~~(11)~~(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, and 37, an issue becomes a "ballot issue" upon certification by

the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

~~(12) "Party" means any political organization which at the last preceding election for governor polled at least 5% of the votes for governor.~~

~~(13)~~(11) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (2) of this section.

~~(14)~~(12) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure the primary or incidental purpose of which is

(a) to support or oppose a candidate or issue or to influence the result of an election by any expenditure a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality,

special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

~~(15) "Primary" means a statutory procedure for nominating candidates to public office at the polls~~ an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

~~(16)~~(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(17)~~(16) "Registrar" means the county ~~clerk and recorder~~ election administrator and any regularly appointed deputy ~~clerk and recorder~~ or assistant election administrator.

~~(18)~~(17) "Special election" means an election ~~called by the proper authorities to fill vacancies or to raise money~~ other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment

used to record, tabulate, or in any manner process the vote of an elector.

~~(19) "Taxpayer" means a person who has paid a tax on property assessed on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the taxpayers.~~

~~(20) "Vacancy" means an office which does not have an incumbent who has a right to exercise its functions and take its fees or emoluments.~~"

Section 2. Section 13-1-103, MCA, is amended to read:

"13-1-103. Determination of winner. The ~~person~~ individual receiving the highest number of votes for any office at an election is elected or nominated to that office."

NEW SECTION. Section 3. Times for holding primary elections. (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state.

(2) On the second Tuesday after the second Monday in September preceding the general election provided for in 13-1-104(2), a primary election, if required, shall be held throughout the state.

Section 4. Section 13-1-104, MCA, is amended to read:

"13-1-104. ~~Date of~~ Times for holding general ~~election~~

elections. (1) A general ~~brennrat~~ election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to elect federal officers, state or multicounty district officers, members of the legislature, and judges of the district court when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect county and municipal officers, officers of political subdivisions wholly within one county, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision required to hold elections annually shall be held with the general election provided for in subsections (1) and (2). If a primary election is necessary, it shall be held at the same time as the primary provided for the regular general election for that year."

Section 5. Section 13-1-106, MCA, is amended to read:

"13-1-106. Time of opening and closing of polls for all elections. ~~(1)~~ For any election, ~~except as provided in subsection (2)~~:

~~(a) in precincts having 100 or more registered electors, the polls must be opened at 8 a.m. on the morning of election day and must be kept open continuously until 8 p.m. of that day; or until~~

~~(b) in precincts having less than 100 registered electors, the polls must be opened at 1 p.m. and closed at 8 p.m. of that day;~~

~~(c) whenever~~ all registered electors in any precinct have voted, at which time the polls shall be closed immediately.

~~(2) If a special election is held by a county, city, high school district, city or school district on the question of incurring an indebtedness or taking a special or additional levy for any purpose, the polls shall open at 12 noon and be kept open continuously until 8 p.m., however, the polls hours shall be as provided in (1) when held on the same day as the primary or general election with the same judges and clerks of a general county, school, or city election.~~"

NEW SECTION. Section 6. Notice of special election. Notice of any special election shall be published at least once a week for the 3 successive weeks before the election

on radio or television as provided in 2-3-105 through 2-3-107 or in a newspaper of general circulation in the jurisdiction where the election will be held.

Section 7. Section 13-1-112, MCA, is amended to read:

"13-1-112. Rules for determining residence. For registration or voting, the residence of any ~~person~~ individual shall be determined by the following rules as far as they are applicable:

(1) The residence of a ~~person~~ individual is where his habitation is fixed and to which, whenever he is absent, he has the intention of returning.

(2) ~~A person~~ An individual may not gain or lose a residence while kept involuntarily at any public institution, not necessarily at public expense; ~~while~~ as a result of being confined in any public prison; or ~~while~~ solely as a result of residing on a military reservation.

(3) ~~A person~~ An individual in the armed forces of the United States may not become a resident ~~in consequence~~ solely as a result of being stationed at a military facility in the state. ~~A person~~ An individual may not acquire a residence ~~by reason~~ solely as a result of being employed or stationed at a training or other transient camp maintained by the United States within the state.

(4) ~~A person~~ An individual does not lose his residence if he goes into another state or other district of this

state for temporary purposes with the intention of returning unless he exercises the election franchise in the other state or district.

(5) ~~A person~~ An individual may not gain a residence in a county if he comes in for temporary purposes without the intention of making that county his home.

(6) If ~~a person~~ an individual moves to another state with the intention of making it his residence, he loses his residence in this state.

(7) If ~~a person~~ an individual moves to another state with the intention of residing there for an indefinite time, he loses his residence in this state even though he intends to return to this state at some future period.

(8) The place where ~~a person's~~ an individual's family resides is presumed to be that ~~person's~~ individual's place of residence. However, ~~a person~~ an individual who takes up or continues a residence at a place other than where his family resides with the intention of remaining is a resident of the place where he resides.

(9) A change of residence can ~~only~~ be made only by the act of removal joined with intent to remain in another place."

Section 8. Section 13-1-113, MCA, is amended to read:

"13-1-113. Only one residence. There can be only be one residence."

Section 9. Section 13-1-114, MCA, is amended to read:

"13-1-114. ~~Term~~ Computation of elector's age and term of residence. An elector's age and ~~the~~ the term of his residence must be computed by including the day of election."

Section 10. Section 13-1-122, MCA, is amended to read:

"13-1-122. Ballot ~~form and contents~~ content. The ballot submitting the question to the people shall contain ~~the attorney general's explanatory statement and~~ the following:

~~"Pursuant to Article XIV, sections 3 and 4, of the Montana constitution, the secretary of state shall cause~~ requires the question of holding an unlimited constitutional convention to be submitted to the people at the general election in each 20th year following its last submission. If a majority of those voting on the question answer in the affirmative, the legislature shall provide for the calling thereof at its next session.

☐ FOR CALLING A CONSTITUTIONAL CONVENTION

☐ AGAINST CALLING A CONSTITUTIONAL CONVENTION"

NEW SECTION. Section 11. Chief election officer. The secretary of state is the chief election officer of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation, and interpretation

of the election laws other than those in chapters 35, 36, or 37 of this title.

NEW SECTION. Section 12. Forms and rules prescribed by chief election officer. (1) In carrying out his responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:

(a) written directives and instructions relating to and based on the election laws;

(b) sample copies of prescribed and suggested forms; and

(c) advisory opinions on the effect of election laws other than those laws in chapters 35, 36, or 37 of this title.

(2) The secretary of state may prescribe the design of any election form required by law. He must seek the advice of election administrators and printers in designing the required forms.

(3) Each election administrator shall comply with the directives and instructions and shall provide election forms prepared as prescribed.

NEW SECTION. Section 13. Chief election officer to advise, assist, and train. The secretary of state shall advise and assist election administrators with regard to application, operation, and interpretation of Title 13, except for chapters 35, 36, or 37. He shall hold at least

one workshop each year to provide training and assistance to election administrators. Election administrators shall be reimbursed, from funds appropriated to the secretary of state, for their mileage and expenses for attending the workshops at the rates set for mileage and expenses for county officials as provided for in 2-18-501 through 2-18-503. At the discretion of the secretary of state and within the budget limits allowed for workshops, such workshops may be held in several sessions at separate locations in the state.

NEW SECTION. Section 14. Election administrator. (1) The county clerk and recorder of each county is the election administrator unless the governing body of the county designates another official or appoints an election administrator.

(2) The election administrator is responsible for the administration of all procedures relating to registration of electors and conduct of elections and shall keep all records relating to elector registration and elections.

NEW SECTION. Section 15. Election records open to public. Unless specifically provided otherwise, all records pertaining to elector registration and elections are public records. They shall be open for inspection during regular office hours.

NEW SECTION. Section 16. Election costs. (1) Unless

specifically provided otherwise, all costs of the primary and general elections regularly scheduled for even-numbered years shall be paid by the counties.

(2) Costs of the primary and general elections regularly scheduled for odd-numbered years shall be paid by the counties and other political subdivisions for which the elections are held. Each political subdivision shall bear its proportionate share of the costs as determined by the county governing body.

(3) A political subdivision holding an anual election with a regularly scheduled election shall bear its proportionate share of the costs as determined by the county governing body.

(4) The political subdivision for which a special election is held shall bear all costs of the election, or its proportionate share as determined by the county governing body if held in conjunction with any other election.

(5) The county governing body shall set a schedule of fees for services provided to school districts by the election administrator.

(6) Election costs shall be paid from county funds, and any shares paid by other political subdivisions shall be credited to the fund from which the costs were paid.

NEW SECTION. Section 17. Disposition of ballots and

other election materials. (1) The voted ballots, detached stubs, unvoted ballots, and unused ballots from an election shall be kept in the unopened package received from the election judges for a period of 12 months. Such packages may be opened only when an order for opening is given by the proper official for a recount procedure. After 12 months, if there is no contest begun, recount pending, or appeal of a decision relating to a contest or recount, an election administrator may destroy the ballots without opening the packages.

(2) The secretary of state, in consultation with the state records committee, shall prepare a suggested plan for retention and destruction of all other election records. Each election administrator shall prepare a plan for retention and destruction of election records in the county and shall submit it to the secretary of state for approval. After approval of such a plan, records may be destroyed as provided in the plan. All plans must be reviewed by the secretary of state every 5 years.

NEW SECTION. Section 16. Election records to be kept by secretary of state. (1) The secretary of state shall maintain current and accurate records including:

(a) a list of all precincts in each county;

(b) a map showing the boundaries of all precincts in each county;

(c) a count of the number of registered voters in each precinct for the latest general election;

(d) a list of legislative districts, judicial districts, and any multicounty election districts, showing the precinct numbers of each county contained in each district and the number of registered voters in each district for the latest general election;

(e) a count of votes cast at the latest general election by precinct; by municipality; and by legislative, judicial, and multicounty districts.

(2) Each election administrator shall provide the information and map for the record required in subsection (1) in the form and at the time prescribed by the secretary of state.

(3) The records required in subsection (1) and all records in the secretary of state's office pertaining to elections shall be open for public inspection during normal office hours.

Section 19. Section 13-2-102, MCA, is amended to read:

"13-2-102. Deputy registrars. (1) ~~All notaries~~ A notary public who fulfills the requirements of subsection (4) are may be a deputy registrars registrar in the county in which they reside he resides.

~~(2) The commissioners shall appoint a minimum of two deputy registrars who are not notaries public, a minimum of~~

one--from--each-of-the-two-major-political-parties-for-each precinct-in-the-county-from-lists-of-persons-recommended--by the--political-parties.-If-the-parties-fail-to-submit-lists the-commissioners-shall-appoint--deputy--registrars--without recommendations--from--the--parties.-The-number-of-appointed deputy-registrars-for-each-county shall--always--be--equally divided--between---the--two--major--political--parties.--An appointed-deputy-registrar-shall -be--a--qualified--resident elector-in-the-precinct-for-which he-is-appointed.

(2) (a) The governing body of each county shall appoint at least two deputy registrars for each precinct in the county before March 15 of each even-numbered year.

(b) The number of appointed deputy registrars shall be equally divided between the political parties meeting the requirements of 13-10-601 unless one or more of the parties fail to submit the list required in subsection (3) or submit an incomplete list. A political party which qualifies under 13-10-501 may request the appointment of deputy registrars and shall submit a list for such appointments within 30 days of such qualification.

(c) An appointed deputy registrar must be a resident elector in the precinct for which appointed but may register electors in all precincts in the county.

(3) No-deputy-registrar-may--register--a--voter--until that--deputy--registrar--has -been--issued--a-certificate-of

approval-by-the-county-registrar-certifying-that-the--deputy registrar--has---received---instructions---on--registration procedure-from-the-county-registrar. Deputy registrars shall be appointed from lists of individuals recommended by the qualified political parties, submitted by February 1 of even-numbered years. If no lists are submitted by political parties, the governing body may appoint two deputy registrars for each precinct without party recommendations.

(4) A--deputy registrar--who--has--been--issued--the certificate-required-by-subsection-(3)-may-register-electors residing-in-any-precinct-of-the-county-for--which--he--is--a deputy--registrar. Each election administrator shall provide training to all deputy registrars in registration procedures and shall issue a certificate to each deputy registrar on successful completion of the training. A deputy registrar may not register voters without a current certificate. All certificates expire on March 15 of each even-numbered year.

(5) within-3-days-after-a-registration-card-is -filled out--deputy Deputy registrars shall forward the-card all completed cards to the county registrar within 3 days. Registration cards properly executed prior-to-the close-of deputy registrar prior to the close of registration deadline shall be accepted by-the-registrar for 3 days after the deadline close of registration."

Section 2. Section 13-2-11, MCA, is amended to read:

"13-2-112. ~~Registry--book--and--card-index~~ register of electors to be kept. ~~The--registrars~~ Each election administrator shall keep an official register of electors in ~~a~~ the manner ~~which~~ each registrar deems ~~the~~ to be consistent most efficient. ~~A-card-index-shall-be-kept-by-the--registrar and--shall--at-all-times-be-in-the-custody-of-the-registrar. The-form-and-information recorded-in-the-registry-book-and on--the--registry cards shall-be-designated-by-the-secretary of-state.~~ The original signed registration form for each elector shall be filed alphabetically in a separate file for each precinct. Additional files and records may be established for convenience. The information recorded in the official register of electors and the design of the registration forms shall be prescribed by the secretary of state."

Section 21. Section 13-2-114, MCA, is amended to read:

"13-2-114. Registration cards numbers to be assigned. ~~(1) Registration cards may, at the discretion of the county clerk and recorder, be numbered with the elector's social security number, and such number shall be the registry number.~~ The registration form for each elector shall be assigned a number by the election administrator, using a system of numbering that best accommodates the filing system and list preparation method used. The election administrator may adopt the use of the elector's social security number as

the registration number. If social security numbers are used, they may not be printed on lists of registered voters or released as public information.

~~(2) The registrar shall classify registration cards by precinct and arrange the cards for each precinct in alphabetical order.~~ If social security numbers are used as the registration numbers, the election administrator may assign an alternative number for any elector who does not have a social security number or who declines to provide the number. A system of assigning alternative numbers shall be developed in consultation with the secretary of state.

~~(3) The cards for each precinct shall be kept in a separate file.~~

~~(4) Immediately after filling out a registration card, the registrar shall enter the information in the official register of the county in the proper precincts.~~"

Section 22. Section 13-2-115, MCA, is amended to read:

"13-2-115. Lists of registered electors Registration lists to be prepared. (1) Immediately after registration is closed, the registrar election administrator shall prepare and have printed lists of all registered electors in each precinct. ~~The registrar shall have a list printed of all registered electors shown on the precinct registers of the county or city 10 days or more preceding any election.~~ Names of electors shall be listed alphabetically, with their

residence address or mailing address if located where street numbers are not used. A preliminary list of registered electors may be printed before the close of registration for an election. If a preliminary list is printed a supplementary list must be printed after the close of registration.

~~(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post office address if he resides outside a city, and the registry number.~~

~~(3)~~(2) A copy of the list of registered voters shall be posted displayed at the polling place. ~~Sufficient~~ Extra copies of the lists shall be retained by the registrar election administrator and furnished to an elector upon request.

~~(4) If no declarations of nomination have been filed 40 days before a primary election of city officers, the city clerk shall immediately notify the registrar in writing and the list of registered electors for the city shall not be printed.~~

~~(5)~~(3) The list of registered voters electors prepared for a primary election may be used for the general election only if a supplemental list, giving the ~~names of electors who have registered after the first list was prepared~~ additions and deletions since the primary list was prepared,

is printed. The election administrator may prepare lists for a special election but lists are not required to be printed for special elections.

~~(6) The expense of printing this list shall be paid by the county or city in which the election is to be held.~~

Section 23. Section 13-2-116, MCA, is amended to read:

"13-2-116. Precinct register. (1) ~~After the closing of the official register and before the electors, the registrar shall:~~

~~(a) prepare a precinct register for each precinct for use by clerks and election judges;~~

~~(b) list the names of electors in alphabetical divisions;~~

~~(c) show all information from the registry card of each elector except the oath of the elector;~~

~~(d) deliver a certified copy of the precinct register to the election judges prior to the opening of the polls;~~

~~(e) combine into one precinct register the names of all electors in the several precincts where the precincts in city elections or elections in school districts of the first class include more than one county precinct.~~ Before each election, the election administrator shall prepare a precinct register for each precinct for use by the election judges. The register must contain an alphabetical list of the names, with addresses, of the registered electors. a

space for the signature of the elector and such other information as prescribed by the secretary of state.

(2) If no declarations of nomination have been filed 40 days before a primary election for city offices, the city clerk shall immediately notify the registrar in writing and the precinct register or registers shall not be prepared. If some of the electors in a district are not eligible to receive all ballots at an election because of a coincidence of the elections of more than one political subdivision, the election administrator shall distinguish the names of those eligible for each ballot by whatever method will be clear and efficient.

(3) When several precincts have been combined at one polling place for an election, the election administrator may combine the electors from all precincts into one register or may provide separate registers for each precinct."

Section 24. Section 13-2-117, MCA, is amended to read:

"13-2-117. Commissioner County governing body to provide registrar election administrator with office help. The commissioners shall [illegible] body must provide the registrar election administrator with sufficient help for the duties imposed by this title. The cost of stationery, printing, publishing, and postage is a proper charge against the county."

NEW SECTION. Section [illegible]. [illegible] of officials when election not held. If a scheduled election is not necessary or is cancelled for any reason, the governing body or official taking the determination shall immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator shall make the determination and notify the proper governing body. Lists of registered voters and precinct registers need not be printed if the election will not be held.

Section 26. Section 13-2-201, MCA, is amended to read:

"13-2-201. Hours of registration. The registrar's election administrator's office shall be open for voter registration of electors from 8 a.m. until 5 p.m. on all regular working days except legal holidays as defined by 1-1-216, except that the registrar's office shall be kept open on election day during the hours when the polls are open. The office may be kept open for the registration of electors at other times at the discretion of the election administrator."

Section 27. Section 13-2-202, MCA, is amended to read:

"13-2-202. Registration by personal appearance. An elector may register in person, before the registrar or a deputy registrar in the county in which he resides and:

(1) answering any questions asked by the registrar

official concerning items of information called for by registry-cards in the registration form.

(2) Signing and verifying or affirming the affidavit or affidavits on the card form."

Section 29. Section 13-2-203, MCA, is amended to read:

"13-2-203. Registration by mail. (1) ~~An elector~~ A qualified individual may register by mailing, postage paid, a properly completed registry-card registration form to the registrar election administrator in the county in which he resides.

(2) The registrar election administrator shall send registry-cards registration forms for mail registrations to all persons qualified individuals requesting them, whether the application is made in writing or by telephone, and shall in addition arrange for the cards to be available from city and town clerks within the county and may arrange for them to be available at other locations and shall, in addition, arrange for the forms to be widely and conveniently available within the county. The mail registry card registration form shall be in the form designed as prescribed by the secretary of state.

(3) The elector shall complete, sign, and either verify or affirm the registry card mail registration form before a notary public or other officer empowered to administer oaths or complete and sign the card form and

obtain the signature, address, and voting precinct of at least one registered voter in the county who shall witness the facts stated on the registry-card registration form.

(4) The registration card form must be received by the election administrator on or before the day of the close of registration and must be mailed no later than 15 days after the date it is signed by the witness or officer before whom signed.

~~(5) Upon receipt of a properly executed registry card, the county registrar shall cause to be sent to the new voter a postcard affirming registration and giving the location of the voter's polling place. On the face of the notification shall be printed the words "do not forward, return postage guaranteed".~~

Section 29. Section 13-2-205, MCA, is amended to read:

"13-2-205. Procedure when prospective voter elector not qualified at time of registration. ~~A person~~ An individual who is not eligible to register because of residence or age requirements but who will be eligible on or before election day may register with the registrar if he answers the questions of the registrar and it appears that he will become qualified to vote by election day."

NEW SECTION. Section 30. Notice of registration. (1) The election administrator shall give or mail to each elector a notice, affirming registration and giving the

location of the elector's polling place. Mailed notices must have printed on the address side the words "Do Not Forward, Return Postage Guaranteed".

(2) The election administrator must investigate the reason for the return of any mailed notices and correct the address on the registration form and mail a new notice or cancel the registration of the elector if a diligent effort fails to locate the elector named on the registration form.

Section 31. Section 13-2-212, MCA, is amended to read:

"13-2-212. Registration of electors in the United States service. (1) Any elector in the United States service who is absent from the state and the county of which he is a resident may register by mailing, to the election administrator:

(a) ~~mailing~~ the ~~registry card~~ registration form, filled out and signed under oath ~~to the registrar~~; or

(b) ~~mailing~~ the federal postcard application, filled out and signed under oath ~~to the registrar~~.

(2) The form of the federal postcard application, which may be used both as an application for registration and for a ballot, shall be prescribed by the secretary of state."

Section 32. Section 13-2-213, MCA, is amended to read:

"13-2-213. Oath for elector in United States service. (1) Any oath required for electors in the United States

service to register, request a ballot, or vote may be administered and attested, within or without the United States, by any commissioned officer in active service, any member of the merchant marine of the United States designated for this purpose by the secretary of commerce, the head of any department or agency of the United States, any civilian official empowered by state or federal law to administer oaths, or any civilian employee designated by the head of any department or agency of the United States.

(2) No official seal is required to be affixed to the oath. Neither the elector nor the certifying officer need disclose his whereabouts at the time of taking the oath except to the extent required by the federal post card application."

Section 33. Section 13-2-214, MCA, is amended to read:

"13-2-214. Classification of federal post card application. (1) Upon receipt by the ~~registrar~~ election administrator of a federal post card application, properly filled out and signed under oath, the ~~registrar~~ election administrator shall classify the application according to the precinct in which the elector resides and arrange the cards in each precinct in alphabetical order or, if the information is insufficient to determine residence, assign an appropriate precinct.

(2) The ~~registrar~~ election administrator shall, upon

1 receipt of any federal post card application, immediately
2 enter upon the official register of the county in the proper
3 precinct the full information given by the elector all
4 information in the registration records of the office and
5 either file the post card application with regular
6 registration forms or file a photocopy attached to a regular
7 registration form on which the information has been entered.
8 (3) ~~Immediately upon entry in the official registry of~~
9 ~~the name of the elector the registrar~~ The election
10 administrator shall send to her the applicant by the fastest
11 mail service available a notice that he has been registered
12 and informing him that in order to secure a ballot he must
13 mail at any time within ~~45~~ 15 days preceding the election
14 another federal post card application to ~~his registrar or~~
15 ~~city clerk~~ the election administrator.
16 (4) A federal post card application received from an
17 elector in the United States service within ~~45~~ 15 days
18 preceding an election shall be treated as a simultaneous
19 application for registration and for a ballot. Where the
20 elector is already registered, the federal post card
21 application shall be treated as an application for a ballot.
22 The election administrator may use photocopies of the post
23 card application to complete all necessary records."
24 Section 34. Section 13-2-301, MCA, is amended to read:
25 "13-2-301. Close of registration procedure. (1) The

1 registrar election administrator shall:
2 (a) ~~close registrations as follows:~~
3 ~~(i) for 40 days before any federal election;~~
4 ~~(ii) at noon the day before election for voters~~
5 ~~entitled under the provisions of 13-2-215 to register to~~
6 ~~that time;~~
7 ~~(iii) for 40 days before any election other than~~
8 ~~hereinabove provided;~~ close registrations for 30 days before
9 any election; and
10 (b) ~~immediately after closing registrations, send the~~
11 ~~secretary of state a certificate showing the number of~~
12 ~~voters registered in each precinct in a county;~~ publish
13 notice specifying the last registration will close on radio
14 or television as provided in 2-3-105 through 2-3-107 or in a
15 newspaper of general circulation in the county at least once
16 a week for 3 weeks before the close of registration.
17 ~~(c) 60 days before the election, publish notice in a~~
18 ~~newspaper of general circulation in the county specifying~~
19 ~~the day registration will close and post the notice in each~~
20 ~~precinct.~~
21 ~~(2) The published notice shall continue for a period~~
22 ~~of 20 days. The notice shall state that electors may~~
23 ~~register for the ensuing election by appearing before the~~
24 ~~registrar or before any deputy registrar as provided by law.~~
25 Information to be included in the notice shall be prescribed

by the secretary of state."

Section 35. Section 13-2-302, MCA, is amended to read:

"13-2-302. Registration while registry closed immediately before an election. An individual may register during the time when the registry registration is closed preceding any election, a person may register and the registrar elections administrator shall keep his registry card registration form in a separate file until the official register is again open. At that time, all cards in the temporary file shall be placed in their proper position in the official register it can be properly entered after the election."

Section 36. Section 13-2-401, MCA, is amended to read:

"13-2-401. Cancellation of registry registration for failure to vote -- reregistration. (1) Except as provided in subsection (3), within 60 days after every general election in which a president is elected, the registrar election administrator shall:

(a) compare the electors who have voted in each precinct as shown by the official pollbook with the official register of each precinct, cancel the registration of the electors who have not voted in each precinct as shown by the official pollbook and precinct register of each precinct;

(b) remove the registry cards of all electors who have

failed to vote, mark each card "canceled", and place canceled cards for the entire county in alphabetical order in the canceled file, mark the form of each elector whose registration has been canceled; and

(c) place canceled forms for the entire county in alphabetical order in the canceled file.

(2) An elector whose card registration is removed and canceled may register reregister in the same manner as his original registration were made if he was registering for the first time.

(3) The registration of an elector who actually votes by absentee ballot but whose ballot does not arrive in time to be counted shall may not be canceled if his ballot is received and rejected by the registrar election administrator within 10 days succeeding the election.

(4) When the registrar election administrator is complete cancellation of voters the electors' registration as provided in this section, a notice of cancellation shall be published on radio or television as provided in 2-3-103 through 2-3-107 or in a newspaper of general circulation in the county once a week for 2 weeks in a newspaper of general circulation in the county. The notice shall be run BBP (display advertisement) (known as BDP in the trade) if in a newspaper or as an announcement if on radio or television and shall be in a form prescribed by the secretary of state.

The names of those electors whose registration has been cancelled need not be published."

Section 37. Section 13-2-402, MCA, is amended to read:

"13-2-402. ~~Cancellation of registration for other~~ Other reasons for cancellation. The ~~registrar~~ election administrator shall cancel ~~any~~ the registration ~~card~~ of any elector:

(1) at the written request of the ~~person~~ registered elector;

(2) if a certificate of the death of any elector is filed or if an elector is reported as deceased by the department of health and environmental sciences in the department's reports submitted to the county under 72-16-217;

~~(3) whenever 45 days or more prior to the closing of registration, three qualified registered electors residing within the precinct challenge an elector by filing affidavits giving the name of the challenged elector, his registry number, his residence and stating of the personal knowledge of the affiant the person registered does not reside at the place designated on his registration card;~~

~~(4)~~(3) ~~whenever~~ if the insanity of the elector is legally established to be of unsound mind;

~~(5)~~(4) ~~whenever~~ if the incarceration of an elector in a penal institution for a felony conviction is legally

established; or

~~(6)~~(5) ~~whenever~~ if a certified copy of a court order directing the cancellation is filed with the ~~registrar~~ election administrator;

(6) if an elector is successfully challenged and not allowed to vote at an election as provided in 13-13-30d; or

(7) if a notice is received from another county or state that the elector has registered in that county or state."

Section 38. Section 13-2-403, MCA, is amended to read:

"13-2-403. ~~Notification of elector — reregistration~~ Challenge of registration. ~~Within 30 days after registration has been completed, the registrar shall send written notice to the elector at the address shown on the registration card. If a person proves to the registrar that he is qualified, he may reregister.~~ (1) Forty-five or more days before the close of registration for an election, three registered electors of a precinct may challenge the registration of an elector by filing affidavits giving the name of the elector whose registration is challenged, the address at which he is registered, and a statement that the affiant has personal knowledge that the elector does not reside at the address where registered.

(2) No later than 3 days after the filing of affidavits as provided in subsection (1), the election

administrator must send written notice to the elector whose registration is challenged, at the address shown on the registration form. The notice must state that registration will be cancelled within 15 days of the filing of the affidavits unless the elector refutes the affidavits by submitting proof or a sworn statement that he resides at the address given on his registration form.

(3) The election administrator must cancel the registration of an elector whose registration is challenged under this section 15 days after the filing of the affidavits required in subsection (1) unless proof or a sworn statement as required in subsection (2) is received.

(4) If an elector proves or swears he resides at the address given on his registration form after his registration has been cancelled as provided in this section, he may reregister by completing a new registration form. Such registration shall be effective for the next election even though the registration for that election is closed.

Section 39. Section 13-2-404, MCA, is amended to read:

"13-2-404. Challenges prior to election. (1) If ~~An~~ an elector ~~may challenge the qualifications of~~ believes another elector fails to meet the qualifications required in 13-1-111, he may challenge the right of that elector to vote any time not later than 20 days prior to an election. The challenge must:

(a) be filed with the ~~registrar~~ election administrator and be signed by the elector;

(b) be verified by the affidavit of the elector that the elector designated is not entitled to vote;

(c) state the grounds of the challenge, objection, and disqualification.

(2) The ~~registrar~~ election administrator shall

(a) file the affidavit of challenge in his office;

(b) deliver a correct copy of the affidavit to the judges of election, together with ~~a copy of~~ the precinct ~~registers, checklists, and other documents~~ register;

(c) write in the precinct register ~~opposite~~ beside the name of any person individual whose qualifications are challenged the words, "to be challenged";

(d) notify the elector within 5 days by certified or registered mail that his qualifications as an elector have been challenged."

Section 40. Section 13-2-501, MCA, is amended to read:

"13-2-501. Transferring registration ~~to another~~ precinct or changing name. ~~(1) When an elector changes his residence, he may transfer his registration to the new precinct by:~~

~~(a) executing in person a new registry card before a deputy registrar of the new precinct, and the deputy registrar shall not receive compensation for this service;~~

or

~~(2) making a request in writing to the registrar on a form prescribed by the secretary of state.~~ An elector shall notify the election administrator of a change in residence within the county or a change in name by using a transfer form provided by the election administrator or by completing the changed information on a registration or mail registration form. The form must be signed and affirmed or verified as required on the form. If a registration or mail registration form is used, it must be clearly marked "for transfer of address" or "for change of name" in a space provided on the form for that purpose."

NEW SECTION. Section 41. Right to vote when precinct or name changed. (1) An elector who has changed his residence to a different precinct within the same county and has failed to notify the election administrator of the change by a transfer or new registration form may vote in the precinct where he is registered at the first election at which he offers to vote after the change unless his registration has been cancelled as provided in [section 30], 13-2-401, or 13-2-402.

(2) An elector still residing in the same precinct where registered whose name has changed and who has failed to notify the election administrator of the change by a new registration form may vote under his former name at the

first election at which he offers to vote after the change unless his registration has been cancelled as provided in [section 30], 13-2-401, or 13-2-402.

(3) The elector must state his correct residence address and name when offering to vote and must complete a transfer form or new registration form to make the necessary correction before being allowed to sign the precinct register and vote.

Section 42. Section 13-2-502, MCA, is amended to read:

"13-2-502. Procedure for transferring registry registration. ~~(1) When a request to transfer registry is received, the registrar shall compare the elector's signature on the request with his signature on the registry card and may question the elector on any information shown on the registry card.~~

~~(2) If the registrar is satisfied, he shall endorse on the registry card the date of the transfer and the precinct to which transferred.~~

~~(3) The registrar shall file the registry card in the register of the precinct of the elector's residence or in the register of the precinct of transfer and transfer the elector's name to the proper precinct in the register.~~

~~(4) Where the elector changes his place of registration as provided in 13-2-401(1), the registrar shall file the new card in the register of the precinct of the~~

elector's present residence and transfer the elector's name to the proper precinct in the register. The old registration card shall be marked "canceled" and placed in the canceled file. The election administrator shall make the necessary corrections in the registration records in his office when he receives a transfer form or corrected registration form if he is satisfied the form is valid. The original registration form may be fastened to the back of the new form, in which case the original and current forms must be retained, or the original registration form may be marked "canceled" and filed in a canceled file."

NEW SECTION. Section 43. Change of residence to another county. (1) An elector who changes his residence to a different county within this state must register in his new county of residence in order to vote in any election unless the change occurs less than 45 days before the election.

(2) An elector who changes his residence to a different county 45 days or less before an election may vote in person or by absentee ballot in the precinct in that county where previously registered.

(3) The elector must state his current name and residence address and date of residence change when offering to vote or when applying for an absentee ballot. The election administrator shall note the information on the

elector's registration form if an absentee ballot application is received. The election judges shall note the change of address and date of residence change in the precinct register if the elector votes in person.

(4) The registration of an elector who votes under the provisions of subsection (2) of this section shall be cancelled after the election.

Section 44. Section 13-2-503, MCA, is amended to read:

"13-2-503. Inquiry as to previous registration — procedure notices of changes. (1) ~~The registrar shall question each person registering to ascertain whether he has previously registered in this state. If the person has previously registered, the registrar shall enter his name in a separate file which is indexed by counties. Cards for this purpose shall be in the form prescribed by the secretary of state. The election administrator shall check each new registration to ascertain whether the elector has listed previous registration in another county of this state or another state. If the elector has been previously registered, the election administrator shall enter his name on a notice or by photology the registration form.~~

(2) ~~Not later than [illegible] days after closing the registration books, the registrar shall forward the cards by registered or certified mail to the registrar where the applicant previously voted. The delivery receipt shall be~~

kept--on--file--with-other-election-records. At least once a week and not more than 3 days after the close of registration, the election administrator shall forward the notices or photocopies for counties in this state to the election administrator of the county where the elector was previously registered. A list or other record shall be kept of notices or photocopies sent.

(3) Upon--receiving--notice-to-cancel-the registration of-an-elector,-the--registrar--shall--immediately--draw--red lines--through-the elector's-name-in-the register and-on the registration-card. Once a month and not more than 3 days after the close of registration, the election administrator shall forward the notices or photocopies from other states to the secretary of state or chief election official of the state where the elector was previously registered. A list or other record shall be kept of notices or photocopies sent."

Section 45. Section 13-2-601, MCA, is amended to read:

"13-2-601. Name on precinct register prima facie evidence of right to vote. A-person An elector may not vote at an election mentioned in this title unless his name appears on election day in the copy of the official precinct register furnished by the registrar election administrator to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote."

Section 46. Section 13-2-603, MCA, is amended to read:

"13-2-603. Erroneous omission of name from precinct register. (1) An elector whose name is erroneously omitted from a precinct register or other election register may secure from the registrar election administrator a certificate of the error, stating the precinct in which he is entitled to vote, and present the certificate which will entitle him to vote to the election judges.

(2) The certificate shall be marked "voted" by the election judges and returned by them with the precinct register.

(3) If the elector's polling place is not located in the city where the election administrator's office is located, the elector may vote by signing an oath that his name was erroneously omitted if the election administrator can confirm such omission by telephone to the chief election judge of the precinct."

Section 47. Section 13-3-101, MCA, is amended to read:

"13-3-101. Establishment of election precincts. (1) The territorial unit for elections is the election precinct. All election precincts shall be designated by numbers, names, or both.

( ) The commissioners governing body of each county shall establish a convenient number of election precincts, equalizing the number of electors in each precinct as nearly

as possible."

Section 48. Section 13-3-102, MCA, is amended to read:

"13-3-102. ~~Precinct~~ Change of precinct boundaries. (1) The ~~commissioners~~ county governing body may change the boundaries of precincts, but not ~~between January 1 and December 1 in any year during which a general biennial election will be held, except that the commissioners may change the boundaries of precincts in the year during which a general biennial election will be held when~~ within 100 days before any primary or between a general election and the primary for that election, when the changes are required to make precinct boundaries conform to legislative district boundaries following the adoption of ~~reapportionment plans~~ a districting and apportionment plan under Article V, section 14, of the 1972 Montana constitution or other district boundaries changed by the districting and apportionment plan. ~~In those instances, the changing of precinct boundaries must be accomplished within 60~~ 45 days of the filing of the final ~~reapportionment~~ plan.

(2) All changes must be certified to the ~~registrar~~ election administrator 3 days or less after the change is made.

(3) ~~The boundaries of election precincts may conform to the wards of cities of the first, second, and third class and the boundaries of first class school districts.~~

officials responsible for preparing a districting and apportionment plan shall consider the problems of conforming present precinct boundaries to the new districts as well as existing boundaries of wards, school districts, and other districts. The election administrator of counties involved in the plan shall be consulted before adoption of the final plan."

Section 49. Section 13-3-103, MCA, is amended to read:

"13-3-103. Certification of boundary changes. (1) Not more than 10 days after an order of the ~~commissioners~~ governing body has established or changed the boundaries of an election precinct, the ~~commissioners~~ governing body shall cause to be prepared and delivered to the election administrator a written legal description and a map to the ~~registrar~~ showing the borders of all precincts and school districts in which elections are held within the county.

(2) Not more than 10 days after ward boundaries school district or other election district boundaries have been changed, the ~~city council must~~ governing body making the change shall certify any changes or ~~alteration~~ alterations in the ward boundaries to the ~~registrar~~ election administrator and deliver to him a written legal description and a map showing boundaries of the wards, the streets, avenues, and alleys by name, and the wards by numbers school districts, or other election districts. The map must be

sufficiently detailed to clearly identify the wards or districts and the territory included in each."

Section 50. Section 13-3-104, MCA, is amended to read:

"13-3-104. Precincts, and wards, and election districts. (1) A ward or school election district may be divided into two or more precincts, and a precinct may be divided into two or more polling places.

(2) ~~In cities not of the first, second or third class, precincts may include two or more wards or may comprise territory included by one or more wards together with contiguous territory lying outside the incorporated limits of the cities.~~ Precincts may include two or more wards or election districts, together with contiguous territory lying outside the municipality or district, if provision can be made for clearly identifying the electors eligible to vote in each ward or district."

Section 51. Section 13-3-105, MCA, is amended to read:

"13-3-105. Designation of polling place. (1) The ~~commissioners~~ county governing body shall ~~make an order designating~~ designate the polling place for each precinct ~~at the session at which election judges are appointed. Such order may provide for polling places to be located outside the boundaries of the precinct~~ no later than 30 days before a primary election. The same polling place shall be used for both the primary and general election if at all

possible. Changes may be made by the governing body in designated polling places up to 15 days before an election if a designated polling place is not available. Polling places may be located outside the boundaries of a precinct.

(2) Not more than 15 or less than 3 2 days before an election, the ~~registrar or city clerk~~ election administrator shall publish in a newspaper of general circulation in the county, a statement of the locations of the precinct polling places. Notice may also be given as provided in 2-3-105 through 2-3-107.

(3) An election administrator may make changes in the location of a polling place if an emergency occurs 10 days or less before an election. Notice shall be posted at both the old and new polling places, and other notice may be given by whatever means available."

Section 52. Section 13-4-101, MCA, is amended to read:

"13-4-101. Appointment of election judges and clerks -- second board of election judges. (1) ~~At their regular meeting next preceding a general primary election the commissioners shall appoint five election judges and two clerks for each precinct having 200 or more electors and three election judges and two clerks for each precinct having less than 200 electors. Judges for new precincts shall be appointed based upon the estimated number of electors.~~

~~(2)--If-a--precinct--has--45h--or--more--electors,--the commissioners--may--appoint--a-second-board-of-five-election judges-and-two-clerks-who-shall-have-the-same-qualifications as-the-first-board.~~ At least 10 days before the primary election in even-numbered years, the county governing body shall appoint 3 or more election judges for each precinct, one of whom shall be designated chief judge.

(2) A second board of election judges, designated as a counting board, may be appointed in any precinct if recommended by the election administrator."

NEW SECTION. Section 53. Qualifications of election judges. (1) Election judges shall be registered electors of the county and of the precinct in which they serve, except as provided in [subsection (4) of section 54].

(2) No election judge may be a candidate or a spouse, ascendent, descendent, brother, or sister of a candidate or a candidate's spouse or the spouse of any of these in an election precinct where the candidate's name appears on the ballot. However, this does not apply to candidates for precinct offices.

Section 54. Section 13-4-102, MCA, is amended to read:

"13-4-102. Manner of choosing election judges and clerks. (1) ~~The election~~ Election judges and clerks shall be chosen from lists of qualified voters ~~submitted by the two major political parties 45 days or more before the~~

~~commissioners' meeting which precedes the next primary~~ election registered electors for each precinct in the county, submitted at least 45 days before the primary election in even-numbered years by the county central committees of the political parties eligible to nominate candidates in the primary.

(2) The list of each party may contain ~~twice the number~~ more names than the number of election judges and clerks to be appointed. ~~and not more than a majority may be appointed from one political party for each precinct. Judges so appointed must be a member of the political party they are to represent.~~ The names of those not appointed as election judges shall be given to the election administrator for use in making appointments to fill vacancies.

(3) ~~The commissioners in their discretion may appoint election judges and clerks to fill vacancies or if a major political party fails to submit a list of select on judges.~~ Each board of election judges shall contain judges representing all parties that have submitted lists as provided in this section. No more than a majority may be appointed from the list of one political party in each precinct. If any of the political parties entitled to do so fail to submit a list, the governing body shall, insofar as possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

~~(4) No person shall be appointed to serve as an election judge or election clerk who is a candidate, spouse of a candidate or related to a candidate for office within the second degree of consanguinity. However, this subsection does not apply to school district elections or to candidates for precinct committeeman or committeewoman.~~ The election administrator shall make appointments to fill vacancies from the list provided for in subsection (2), or if the list is insufficient, any qualified registered elector from the county may be appointed."

Section 55. Section 13-4-103, MCA, is amended to read:

"13-4-103. Judges and clerks to serve until others appointed. ~~(1)~~ The election judges ~~and clerks~~ continue to be judges of all elections held in their precincts until other judges ~~and clerks~~ are appointed.

~~(2) The commissioners shall fill vacancies which occur in the office of election judge or clerk.~~"

Section 56. Section 13-4-104, MCA, is amended to read:

"13-4-104. Registrar Election administrator to notify judges ~~and clerks~~. The registrar election administrator must notify the election judges and clerks in writing of their appointment and of the time set for instruction sessions."

Section 57. Section 13-4-105, MCA, is amended to read:

"13-4-105. Oath of judges ~~and clerks~~. Before votes are cast, the election judges ~~and clerks~~ must take and subscribe

the official oath prescribed by the constitution. The election judges may administer the oath to each other ~~and to the clerks~~."

Section 58. Section 13-4-106, MCA, is amended to read:

"13-4-106. Compensation of judges ~~and clerks~~. ~~The compensation of election~~ (1) Election judges ~~and clerks~~ shall be ~~fixed by~~ paid ~~the commissioners~~ at the prevailing federal minimum wage ~~and be paid from county funds. The commissioners shall audit the accounts~~ for the number of hours worked during an election plus the number of hours spent at the instruction session. Mileage may be paid to election judges for attending instruction sessions.

(2) The chief election judge may be reimbursed for the actual expenses of transporting election materials.

(3) The election administrator shall certify the amount due each election judge to the county governing body as soon after an election as all records necessary for such certification are received."

Section 59. Section 13-4-201, MCA, is amended to read:

"13-4-201. Notice of elections. Duties of chief election judge. ~~(1) Twenty days or more before any general election, the registrar shall mail two notices of the election to the election judges. The notices shall be in the form prescribed by the secretary of state.~~

~~(2) Two days or more prior to the election, the~~

1 election judges shall post one notice at the place where the
2 election will be held and the other in one of the most
3 public places in the precinct. The chief election judge
4 shall be responsible for the conduct of the proceedings in
5 the polling place, shall assign duties to other members of
6 the board of election judges, and shall be responsible for
7 the return of all ballots and election supplies to the
8 election administrator.
9 Section 60. Section 13-4-202, MCA, is amended to read:
10 "13-4-202. Administration of oaths. Any election judge
11 or a clerk may administer and certify oaths required during
12 an election."
13 Section 61. Section 13-4-203, MCA, is amended to read:
14 "13-4-203. Instruction of judges and clerks —
15 training materials. (1) Before each election, all election
16 judges and clerks who do not possess a current certificate
17 of instruction shall be instructed by the election
18 administrator a person named by the commissioners in the
19 powers, duties, and liabilities of election judges. In
20 precincts where voting machines or devices are used,
21 instructions shall cover both machines or devices and paper
22 ballots.
23 (2) The instructor shall call meetings as necessary.
24 Chief judges may be required to attend the training session
25 before each election, as well as a special session that may

1 be held for chief judges only.
2 (3) The election judges and clerks shall attend each
3 meeting and receive at least 2 hours of instruction. Any
4 individual willing to be appointed an election judge may
5 attend an instruction session by registering with the
6 election administrator. Such individuals may not be paid for
7 attendance unless they are appointed election judges.
8 (4) Each election judge and clerk shall receive
9 compensation fixed by the commissioners at the prevailing
10 federal minimum wage for instruction to be paid at the same
11 time and in the same manner as for services on election days.
12 The secretary of state shall prepare and distribute training
13 materials for election judges. The materials shall include
14 instructions on the use of all machines or devices approved
15 for use in this state, as well as paper ballots. Enough
16 copies of the materials to supply all election judges in the
17 county and provide a small extra supply shall be sent to
18 each election administrator. The secretary of state shall
19 hold at least one workshop every 2 years to instruct
20 election administrators and their staffs in use of the
21 materials. Workshops may be held in various locations around
22 the state. Costs of the materials and workshops shall be
23 paid by the secretary of state.
24 (5) Each judge and clerk shall receive a certificate
25 of completion from the instructor upon completion of the

~~course.--Each certificate is valid for a period of 2 years.~~ Each election judge completing a training session shall be given a certificate of completion. No individual may serve as an election judge without a valid certificate. However, this does not apply to individuals filling vacancies in emergencies.

~~(6) No person shall serve as election judge or clerk without a valid certificate. However, this does not apply to persons filling vacancies in emergencies.~~ All certificates of completion expire 30 days before the primary election in even-numbered years.

(7) Notice of place and time of instruction must be given by the ~~commissioners~~ election administrator to the county chairmen of the ~~two major~~ political parties."

NEW SECTION. Section 62. Judges to remain at polls -- emergency provisions. (1) Election judges may not leave the premises on which the polling place is located during the hours they are assigned to work unless permission to leave is given by the chief election judge for that precinct. Permission may be granted only for illness or a family emergency.

(2) A chief election judge must obtain the permission of the election administrator to leave the polling place premises because of illness or an emergency. If the chief judge is excused, the election administrator shall appoint

one of the other judges to act as chief election judge.

(3) The time of departure and reason for leaving shall be entered near the oath form subscribed by the election judge or on a form provided by the election administrator. The chief election judge shall sign the entry.

(4) The election administrator may appoint a judge to replace an excused judge.

Section 63. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration ~~of~~ for nomination. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall send a declaration ~~of~~ for nomination to the secretary of state, ~~registrar~~ or ~~city clerk~~ election administrator. Each candidate for governor ~~must~~ shall send a joint declaration ~~of~~ for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination shall be filed in the office of:

(a) the secretary of state for a congressional office, state or district office to be voted for in more than one county, member of the legislature, or judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member

of the legislature or judge of the district court) to be voted for in only one county.

~~(2)~~(3) Each candidate ~~must~~ shall sign the declaration and send with it the required filing fee or, in the case of a an indigent candidate ~~who cannot afford the filing fee,~~ send with it the documents required in ~~lieu of a filing fee~~ by 13-10-203. The declaration ~~of~~ for nomination shall be acknowledged by a ~~notary public~~ an officer empowered to acknowledge signatures if sent by mail or by the officer of the office at which the filing is made.

~~(3)~~(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by his party.

~~(4) Nominating declarations are filed:~~

~~(a) in the office of secretary of state for congressional offices, state or district offices to be voted for in more than one county, members of the legislature, and judges of the district court;~~

~~(b) in the office of the registrar for a county and district offices to be voted for in only one county, other than a legislator or a judge of the district court, and for precinct offices;~~

~~(c) in the office of the city clerk for all city officers.~~

(5) The declaration for nomination shall be in the

form and contain the information prescribed by the secretary of state. ~~Every declaration must be signed by the elector seeking nomination.~~ The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) ~~Nominating declarations~~ Declarations for nomination shall be filed no sooner than the first business day in January of an election year for that office and not no later than 5 p.m., ~~40~~ 50 days before the date of the primary election."

Section 64. Section 13-10-202, MCA, is amended to read:

"13-10-202. Filing fees. Filing fees are as follows:

(1) for offices having an annual salary of ~~$1,000~~ $2,500 or less, ~~$10,~~ except and candidates for the legislature ~~must pay $15~~;

~~(2) for offices having an annual salary of more than $1,000, 1% of the total annual salary;~~

~~(3) in the city of Billings, $15;~~

~~(a) in counties of first class, $54;~~

~~(b) in counties of second class, $35;~~

~~(c) in counties of the third class, $30;~~

~~(d) in counties of the fourth class, $25;~~

~~(e) in counties of other classes, $20;~~

(3) for offices in which compensation is paid in fees,

$10;

(4) ~~for offices in which compensation is paid in fees;~~

~~$5;~~ for officers of political parties, presidential electors, and officers who receive no salary or fees, no filing fee is required.

~~(5) for state, county, and precinct committeemen, delegates to national conventions, and presidential electors, no fees are required.~~"

Section 65. Section 13-10-203, MCA, is amended to read:

"13-10-203. Indigent candidates. If a ~~person~~ an individual is unable to pay a filing fee, the filing officer shall accept the following documents in lieu of a filing fee:

(1) from a successful write-in candidate, a verified statement that he is unable to pay the filing fee;

(2) from a candidate for nomination, a verified statement that he is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(a) contains the name of the office to be filled, and the candidate's name, and residence, ~~occupation, and business~~ address;

(b) ~~is signed by~~ contains signatures numbering 5% or more of the total vote cast for the successful candidate for

the same office at the next last preceding general election; and

(c) ~~is signed by~~ the signatures are those of electors residing within the political ~~division~~ subdivision of the state in which the candidate petitions for nomination; and

(d) the signatures have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304."

Section 66. Section 13-10-204, MCA, is amended to read:

"13-10-204. Write-in nominations. ~~A person~~ An individual nominated by having his name written in on the primary ballot and desiring to accept the nomination may not have his name printed on the general election ballot unless he:

(1) files with the secretary of state ~~registrar~~ or election administrator no later than ~~city clerk within at least~~ 10 days after the ~~primary~~ official canvass, a written declaration indicating his acceptance of the nomination;

(2) pays the required filing fee or, if indigent, complies with 13-10-203;

(3) received at least 5% of the total votes cast for the successful candidate for the same office at the last ~~preceding~~ general election; and

(4) complies with the provisions of 13-37-126."

Section 67. Section 13-10-205, MCA, is amended to read:

"13-10-205. Register of candidates. ~~(1)~~ The secretary of state~~,~~ ~~registrar,~~ and city ~~clerk~~ the election administrator shall each keep a ~~"Register~~ register of ~~candidates for nomination or the primary nominating election"~~ candidates who file with their respective offices. ~~The entries in the register shall contain separate pages for each political party.~~

~~(a) the title of the office sought and the name and residence of each candidate;~~

~~(b) the name of the political party;~~

~~(c) the date of receipt of the declaration of nomination signed by the candidate;~~

~~(d) other information as may be required in arranging the official ballot.~~

~~(2) Immediately after the canvass of votes of the primary election, the officer shall enter in the register:~~

~~(a) the date of entry;~~

~~(b) the name of each candidate nominated;~~

~~(c) the office for which he is nominated; and~~

~~(d) the name of the party making the nomination.~~ provide a complete record of the requisite information pertaining to all candidates in the primary and general election. Information on ballot issues may also be included

in the register. The secretary of state shall prepare and distribute a recommended format for the register."

Section 69. Section 13-10-208, MCA, is amended to read:

"13-10-208. ~~Arrangement of information concerning candidates~~ Certificate of primary ballot — publication — list. (1) Not more than ~~40~~ 50 days and not less than ~~32~~ 40 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of his office in the manner provided in 13-10-209 and chapter 16, part 2, of this title.

~~(a) arrange the list of names and information concerning candidates contained in the record mentioned in (1) in the form and in the order provided in the record, and deliver the list to the registrar of each county in which the candidates are registered or certified to run to each registrar.~~

~~(b) certify the arrangement under state seal to the registrar of each county in which a candidate is registered or certified to run to each registrar.~~

~~(c) post a duplicate in a conspicuous place in his office not 2 days after the primary election.~~

(2) Not more than ~~30~~ 40 days and not less than ~~20~~ 30 days before the date of the primary election, the ~~registrar or city clerk~~ election administrator shall~~:~~ certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official

record of his office and have the official ballot printed in the manner provided in 13-10-209 and chapter 12, part 2 of this title.

~~(a) arrange as required by law the names and other information concerning the candidates and parties named in the valid nominating declarations which have been certified to him or filed with him;~~

~~(b) certify the arrangement into it in his office and post a duplicate in a conspicuous place in his office until after the primary;~~

~~(c) have colored sample ballots and the official ballots printed as required by law.~~

Section 69. Section 13-10-209, MCA, is amended to read:

"13-10-209. Arrangement of ballots. (1) ~~At the~~ Ballots for a primary, there election shall be a ballot for each ~~political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.~~ arranged and printed in the same manner and number as provided in chapter 12 for general election ballots, except there shall be separate ballots for each political party entitled to participate and separate nonpartisan and ballot issue ballots if necessary. The name of the political party shall be printed at the top of the separate ballot for that party

and need not be printed opposite each candidate's name.

~~(2) Candidates' names shall be arranged alphabetically by surnames under the offices and under the proper party designations. The names of the candidates for governor and lieutenant governor shall be arranged by the surname of the candidate for governor. When two or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:~~

~~(a) divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;~~

~~(b) arrange the sets so that candidates' names are rotated by removing one name from the top of the first for each nomination or office and place the name or number at the bottom of the first for each successive set of ballot format. However, in printing ballots for use in any one precinct, only one set shall be used and they shall be identical.~~ It is not necessary to print a primary ballot for a political party which does not have candidates for more than half of the offices on the ballot if no more than one candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election ~~was~~ is necessary for that party if such ~~be~~ is the case and shall certify or instruct the

election administrator to certify the names of the candidates for that party for the general election ballot only.

(3) ~~Ballots shall be printed on white paper in the form of the Australian ballot and the candidates of each party shall be printed on a separate ticket. The separate~~ ballots for each party shall be the same size and color. The stubs of each set of party ballots shall bear the same number. The nonpartisan ballot may be a different size and color than the party ballots, but the stubs shall be numbered in the same order as the party ballots.

(4) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may be a different size and color than the other ballots in the election, but the stubs shall be numbered in the same order.

(5) Each elector shall receive [illegible] of the party ballots and a nonpartisan and a ballot issue ballot if any ballots are printed.

Section 70. Section [illegible] is amended to read:

"13-10-301. Casting of ballot. (1) After preparing his ~~ballots, the elector shall detach it from the remaining tickets and fold it so that the face is concealed and the official stamp is seen.~~ Unless otherwise provided by law,

the conduct of the primary elections, the voting procedure, the counting, tallying, and return of ballots, and all election records and supplies, the canvass of votes, the certification and notification of nominees, recounts, procedures upon tie votes, and any other necessary election procedures shall be at the same times and in the same manner as provided for in the laws for the general election.

(2) ~~The elector shall fold the remaining tickets, vote the marked ballot without leaving the voting place, and deposit the remaining tickets in a separate box marked as the blank ballot box.~~ At a primary election, the elector shall mark only one of the sets of party ballots. After marking any other ballots received, other than the party ballots, the elector shall fold the marked and unmarked ballots separately in a manner so that the marks cannot be seen but the stub is visible on each ballot, and shall then [illegible] by an election judge.

(3) [illegible] the marked and unmarked ballots separately in the voting booth, identifying them by [illegible] and position in the voting booth, [illegible] the ballot and position in the voting booth, [illegible] the presence of the elector:

(a) remove the stub from all the ballots;

(b) deposit the unmarked ballot or ballots and all the stubs in the stub and unmarked ballot box;

(c) and deposit the marked ballots in the voted ballot

box."

Section 71. Section 13-10-302, MCA, is amended to read:

"13-10-302. Write-in votes for previously nominated candidates. If an elector writes the name of a person an individual upon a primary party ballot and when the person's individual's name appears as a candidate upon for the same office on another party ballot, the ballot vote shall count for the person individual only as a candidate of the party upon whose ticket ballot his name is written and the votes cast on the separate party ballots may not be added together."

Section 72. Section 13-10-303, MCA, is amended to read:

"13-10-303. Nominations upon by more than one ticket party. If a person an individual is nominated upon by more than one ticket party, he shall, not later than 10 days after the election, he shall file written notification with the secretary of state, registrar, or city clerk of election administrator indicating the party under which his name is to appear upon the ballot for the general election, and if he fails to notify the proper officers, his name shall appear under the party with whom his nominating declaration for nomination was first filed if a declaration was filed. If an individual did not file a declaration or acceptance of

nomination and fails to notify the proper officers, his name shall be printed on the ballot without a party designation."

Section 73. Section 13-10-305, MCA, is amended to read:

"13-10-305. Independent candidacy forfeits place on ballot. This title does not preclude an elector from having his name printed upon the ballot as an independent candidate, and a candidate may have his name printed on more than one ballot. An individual who has filed as an independent candidate forfeits his place on the general election ballot if an independent candidate if he accepts a write-in nomination for an office as provided in 13-10-204."

Section 74. Section 13-10-311, MCA, is amended to read:

"13-10-311. Election clerks' and judges' duties upon closing of polls. Immediately after the polls are closed or a primary election, the election clerks and judges shall open the ballot boxes and:

(1) count the ballots cast by each political party and fasten the ballots cast for each political party into separate files. The election judges at the primary election shall separate the ballots for each political party and count each party's ballots separately.

(2) take the tally sheets provided by the registrar and count the ballots for each political party. They shall

reconcile the total number of party ballots and the separate total number of other ballots used at the election with the number of electors voting. Any discrepancies in the reconciliations shall be handled as provided in 13-15-201(3).

(3) ~~certify the number of votes cast for each candidate for each office.~~ Each party's candidates shall be listed separately in the tally books.

(4) ~~place the counted ballots in the box.~~ The voted ballots of each party shall be bundled separately for return to the election administrator. The unvoted ballots deposited in the stub box shall be bundled with the stubs."

Section 75. Section 13-10-325, MCA, is amended to read:

"13-10-325. ~~Declining~~ Withdrawal from nomination. ~~Twenty days or more before the election, a person nominated for public office may decline the nomination by a writing sent to the officer with whom his nominating declaration is filed. In city elections, the declination shall be made 10 days or more before the election.~~ (1) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom his declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify

the candidate and the office sought and the reason for withdrawal. It shall be sworn or affirmed before an officer empowered to administer oaths. A candidate may not withdraw later than 30 days before an election.

(2) Filing fees paid by the candidate may not be refunded."

Section 76. Section 13-10-326, MCA, is amended to read:

"13-10-326. Vacancy prior to primary election. ~~If a vacancy occurs in the office of a candidate in case of death or removal from the state or district before the date of the primary, the vacancy shall be filled by the affected political party.~~ (1) If a candidate for nomination for a partisan office dies or withdraws 40 days or more before the primary election, the affected political party may appoint someone to replace the candidate by the procedure provided in 13-10-327.

(2) If the death or withdrawal occurs less than 40 days before the primary, the affected political party shall appoint a candidate after the primary as provided in 13-10-327 if a candidate for that office for that party was not nominated at the primary election. This section does not allow a political party to appoint a candidate for an office if no candidate for nomination by that party filed for the office before the primary election."

Section 77. Section 13-10-327, MCA, is amended to read:

"13-10-327. Vacancy after primary and prior to general election. ~~When a vacancy occurs in the office of a candidate after the primary and before the general election in any district however constituted, the vacancy shall be filled as follows:~~

~~(1) The vacancy shall be filled by a committee of three members selected from each county or district by the county central committees of the county or district of the affected political party.~~ If a party candidate dies or withdraws after the primary and before the general election, the affected political party shall appoint someone to replace the candidate in one of the following ways:

(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment shall be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the

appointment shall be made under rules adopted by the county central committee.

~~(2) The secretary of the committee shall transmit a certificate to the secretary of state with the information contained on the original certificate plus the cause of the vacancy, the name of the person nominated, the office to be filled, and the name of the person for whom the nomination was made.~~ Appointments to fill vacancies must be made no later than 60 days before the election. A candidate may not officially withdraw 50 days or less before a general election. However, if a candidate for partisan office dies less than 60 days before the general election, the affected political party shall appoint a candidate within 5 days after being notified of the vacancy. The procedures provided in 13-12-204 shall be used to place the name of the appointee on the ballot if necessary.

~~(3) When the certificate is filed with the secretary of state accompanied by the proper filing fee, he shall insert the name of the person nominated to fill the vacancy.~~ The appointing committee shall send a certificate to the officer with whom a declaration for nomination for the office would be filed, with the information required on a declaration for nomination and the name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance of the appointment

and the filing fee for the office.

(4) ~~If--the--secretary--of--state--has--certified--the nominations-to-the-registrars,-he-shall-immediately-certify to--the--registrars-the-name-of-the-person-nominated-to-fill the-vacancy,-the-office-to-be-filled,-the-party-or-political principle-he-represents,-and-the-name-of-the-person-for-whom the--nominee--is--substituted.~~ The officer receiving the certificate of appointment, accompanied by a statement of acceptance and the filing fee, shall certify the name of the appointee for the ballot."

Section 78. Section 13-10-328, MCA, is amended to read:

"13-10-328. Vacancy in governor or lieutenant governor ~~candidacies~~ candidacy. ~~A-vacancy-in-the-position~~ The death or withdrawal of a candidate for governor or lieutenant governor ~~shall~~ does not affect the candidacy of the other joint candidate."

Section 79. Section 13-10-401, MCA, is amended to read:

"13-10-401. Date of presidential primary. In the years in which a president of the United States is to be elected, a presidential preference primary election will be held on the same day as the primary provided for in ~~13-1-105~~ [section 3]."

Section 80. Section 13-10-402, MCA, is amended to

read:

"13-10-402. Ballot. The regular party primary ballots ~~provided-for-in-13-10-209~~ shall be used for the presidential preference primary election. The presidential section of the ballot shall be placed before any other section, national, state, or local."

Section 81. Section 13-10-403, MCA, is amended to read:

"13-10-403. ~~Ballot--listings~~ Form of ballot. The presidential preference ballot shall list all candidates nominated in accordance with the provisions of this part and shall, in addition, include a presidential ballot position which shall be designated as "no preference" and a blank write-in space."

Section 82. Section 13-10-405, MCA, is amended to read:

"13-10-405. Submission and verification of petitions. Petitions of nomination for the presidential preference primary election must be presented to the ~~county-clerk-and recorder~~ election administrator of the county in which the signatures are gathered. The ~~county--clerk--and-recorder~~ election administrator must verify the signatures in the manner prescribed in 13-27-303 through ~~13-27-306~~ 13-27-308 and must forward the petitions to the secretary of state. The petitions must be submitted to the ~~clerk-and-recorder~~

elections administrator at least 30 days before the filing deadline established in 13-10-501(6). No filing fee is required."

Section 83. Section 13-10-501, MCA, is amended to read:

"13-10-501. ~~Certificates of~~ Petition for nomination by individuals or parties not appearing on preceding general election ballot. (1) Except as provided in 13-10-504, nominations for public office by an ~~individual~~ independent candidate or a political party which ~~did~~ does not ~~appear on the ballot in the next preceding general election~~ meet the requirements of 13-10-501 may be made by ~~executing a certificate of~~ petition for nomination.

~~(2) The certificate must be in writing and contain~~

~~(a) the name of a candidate for the office to be filled;~~

~~(b) his residence, his occupation, and his business address.~~ The petition must contain the same information and the oath of the candidate required for a declaration for nomination.

~~(3) If a certificate is filed by a political party which did not appear on the ballot in the next preceding general election, it must contain the party name and in five words or less the principle which such body represents.~~ If a petition is filed by a political party, it must contain the

party name and, in five words or less, the principle which such body represents.

(4) The form of the petition shall be prescribed by the secretary of state, and he shall furnish sample copies to the election administrators and on request to any individual.

(5) Each sheet of a petition must contain signatures of electors residing in only one county."

Section 84. Section 13-10-502, MCA, is amended to read:

"13-10-502. Signature requirements for ~~certificate~~ petition. (1) The ~~certificate of~~ petition for nomination must be signed by electors residing within the state and district or political ~~division~~ subdivision in which the officer or officers are to be elected. Each ~~elector signing a certificate shall add to his signature his place of residence and his business address~~ signature line must contain spaces for the signature, post-office address, and printed last name of the signer.

(2) The number of signatures must be 5% or more of the total vote cast for the successful candidate for the same office at the next ~~preceding~~ last general election.

(3) If the office sought is a new office or the boundaries of the district or political subdivision in which the election is to be held have changed since the last

election for the office, the secretary of state shall determine the number of signatures required for a petition of nomination for that office."

Section 85. Section 13-10-503, MCA, is amended to read:

"13-10-503. Filing deadlines. ~~Except as provided in 13-10-504, such certificates shall be filed on or before the filing deadline for the primary election as established by law. Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than 30 days and not less than 15 days previous to the day of election.~~ (1) A petition for nomination, accompanied by the required filing fee, shall be filed with the same officer with whom other nominations for the office sought are filed. Petitions to be filed with the secretary of state must first be submitted, at least 1 week before the deadline for filings, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306.

(2) Except as provided in 13-10-504, each petition shall be filed on or before the filing deadline for the primary election or for the special or general election if no primary election is scheduled."

Section 86. Section 13-10-504, MCA, is amended to

read:

"13-10-504. Independent or minor party candidates for president or vice president. ~~A person~~ (1) An individual who desires to run for president or vice president as an independent candidate or as a candidate of a party not qualified under 13-10-601 must file a ~~certificate of~~ petition for nomination with the secretary of state 90 days prior to the date of the general election.

(2) The petition must first be submitted, at least 1 week before the deadline for filings, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306.

(3) The ~~certificate~~ petition must have the signatures of electors equal to 5% or more of the legal total votes cast for the successful candidate for governor at the next preceding last general election. ~~He must also nominate the required number of electors allowable to Montana and certify the names to the secretary of state~~ The names of the candidates for the required number of presidential electors allowable to Montana shall be certified to the secretary of state when the petition for nomination is filed."

Section 87. Section 13-10-505, MCA, is amended to read:

"13-10-505. Applicability. The provisions of Sections

sections 13-10-501 through 13-10-504 shall not ~~apply~~ be used to fill vacancies or to nominations for special elections or to fill vacancies nominate candidates in nonpartisan elections except as provided in [section 210]."

Section 88. Section 13-10-601, MCA, is amended to read:

"13-10-601. Parties ~~governed by chapter~~ eligible for primary election. Every political party ~~which received 3% or more of the total vote cast for governor at the next preceding general election in the county, district, or state for which nominations are proposed to be made~~ that had a candidate for a statewide office who received a total vote that was 5% or more of the total votes cast for the successful candidate for governor at the last general election shall nominate its ~~candidate~~ candidates for public office, ~~in the county, district, or state under this chapter~~ except for presidential electors, by a primary election as provided in this chapter."

Section 89. Section 13-10-604, MCA, is amended to read:

"13-10-604. Nominations for minor parties. Any political party that did does not receive 3% or more of the total vote cast for governor as provided in 13-10-601 and any new political party about to be formed qualify under the provisions of 13-10-601 may make nominations for public

office as provided in 13-10-501 through 13-10-505."

Section 90. Section 13-12-101, MCA, is amended to read:

"13-12-101. Copies of election laws to be furnished. (1) The secretary of state shall publish copies of the election laws and laws which relate to elections. He shall transmit sufficient copies to each ~~registrary, the registrar shall~~ election administrator to furnish each election precinct in his county with two copies and to provide a small extra supply.

(2) The secretary of state shall, at the expense of the state, furnish the ~~county clerk and the city and town clerks~~ election administrator with copies of the election laws relating to penalties, campaign practices, campaign finances, and ~~contests~~ contested elections. The public official with whom a candidate files a declaration, or ~~certificate~~ petition, or acceptance of nomination shall transmit one ~~of these copies~~ copy to the candidate. ~~Such copies~~ A copy shall also be furnished to any other person required to file a statement. Upon his own information or at the written request of any ~~voter~~ elector, the secretary of state shall provide a copy to any other individual who may be is a candidate or who ~~may otherwise be~~ is required to make a statement required by this title."

Section 91. Section 13-12-102, MCA, is amended to

read:

"13-12-102. Items to be furnished by ~~commissioners~~ election administrators. The ~~commissioners~~ election administrators shall:

~~(1)--furnish pollbooks--to each election precinct in a form prescribed by the secretary of state;~~

~~(2)--furnish printed blanks--for--precinct--registers, pollbooks,--tally- sheets,--lists--of--electors,--tickets,--and returns,--together--with--envelopes--in--which--to--enclose--the returns;~~

~~(3)--furnish--for each polling precinct a ballot box or canvas pouch with a lock and key for the ballots and detached stubs;~~

~~(4)--provide--all--poll--lists,--proclamations--of elections,--and other appropriate--and necessary--apparatus for holding all elections in the county and allow reasonable charges therefor; and~~

~~(5)--provide for the transmission and--use of--same--when--proper officers deliver to each polling place or to the chief election judge of a polling place the supplies necessary to conduct the election at the polling place. If the black ballot for the polling place are delivered before noon of the day before the election, the election administrator shall retain sufficient ballots to supply electors requesting absentee ballots. The election

administrator shall write in the pollbook for that polling place, after the numbers of the ballots retained, "reserved for absentee ballots".

Section 92. Section 13-12-201, MCA, is amended to read:

"13-12-201. Secretary of state to prescribe form of and certify ballot. ~~The ballot shall be in a form prescribed by the secretary of state.~~ (1) Before each election, the secretary of state shall prescribe the form for all ballots to be used in the election, including color, arrangement, category headings necessary for separation of types of offices, minimum type sizes, margins, spacing, and all other matters necessary to insure uniform ballots.

(2) Fifty days or more before an election, except as provided in 13-19-208, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and ballot issue as shown in the official records of his office, which must include the notification specified in 13-37-126.

(3) In the [illegible] shall certify the name and party or other designation of each candidate entitled to appear on the ballot and ballot issue as shown in the official records of his office, which must include the notification specified in 13-37-126, and shall have the

official ballots printed."

Section 93. Section 13-12-202, MCA, is amended to read:

"13-12-202. Uniformity of ballots. Ballot form and uniformity. (1) All official ballots must be uniform in size and printing. This requires uniformity in size, type used, which must be black, type of paper, type of ink, paper and arrangement of the paper. The secretary of state shall prescribe the ballot form for all types of ballots used in this state.

(2) The names of all candidates printed upon the ballots shall be in type of the same size and character.

(3) When the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue.

(4) The ballots must contain the name of every candidate whose nomination is certified under law for a specific office and no other names, except that the names of candidates for president and vice president of the United States shall appear on the ballot as provided in ~~13-25-102(1)~~ 13-25-101(2)."

Section 94. Section 13-12-203, MCA, is amended to read:

"13-12-203. Printing of candidate's name and party designation on ballot. (1) ~~Candidates' names shall be~~

printed in one place on the ballot with the name of the party or political organization as found in the certificate of nomination in not more than three words, printed opposite the name. Except as provided in 13-10-209 and 13-10-303, in partisan elections, candidates' names shall be printed under the title of the office sought, with the name of the party in not more than three words, or "Independent" printed opposite the name.

(2) The names of candidates for chief justice, associate justices, and district court judges shall be followed by "Nominated without party designation". In nonpartisan elections, the candidates' names shall be printed under the title of the office sought, with no description or designation printed with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates shall have printed with them the words "Nominated without party designation".

~~(3) If a person is nominated for the same office by more than one party, he shall file a written election with the officer with whom he filed his declaration of nomination in the time required to file the declaration. If he fails or neglects to file an election, his name shall appear under the party with whom his nominating declaration was first filed.~~"

Section 95. Section 13-12-204, MCA, is amended to read:

"13-12-204. ~~Posters~~ Labels to be printed and distributed where vacancy has been filled. (1) ~~If a vacancy occurs after the printing of the ballots but before election and a person is nominated to fill the vacancy, the officer whose duty it is to have the ballots printed must print posters containing the name of the new nominee and mail them to the election judges by registered or certified letter.~~ An appointment has been made to replace a candidate as provided in 13-10-326 or 13-10-327 after the ballots have been printed but before the election, the election administrator shall order labels printed containing the name of the new nominee and any other information required to go on the ballot.

(2) The election judges administrator shall affix ~~the posters over the substituted name~~ labels in the proper place on each ballot~~,~~ or deliver the labels to the chief election judges to be affixed in the proper place on each ballot before it is given to the elector."

Section 96. Section 13-12-205, MCA, is amended to read:

"13-12-205. Arrangement of names -- rotation on ballot. (1) The candidates' names shall be arranged alphabetically on the ballot according to surnames under the

appropriate title of the respective offices.

(2) ~~The candidates of the two major parties shall appear on the ballot before and above candidates of minor parties and independent candidates.~~ If two or more individuals are candidates for nomination or election to the same office, the election administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any office. The candidates for nomination to an office by each political party shall be considered separately in determining the number of sets necessary for a primary election.

(3) ~~The parties whose candidates for governor, except independent candidates, received the highest number of votes at the next preceding four general elections shall constitute the two major political parties.~~ The election administrator shall begin with a form arranged alphabetically and rotate so that each candidate's name will be at the top of the list for each office on substantially an equal number of ballots. If it is not numerically possible to place each candidate's name at the top of the list, the names shall be rotated in groups so that each candidate's name is as near the top of the list as possible on substantially an equal number of ballots.

(4) ~~If there is a tie in the number of first or second place votes, the determination shall be made by going back~~

~~to-enough-preceding--elections--to--break--the--tie--and--no~~
~~further.~~ If the county contains more than one legislative districts, the election administrator may rotate each candidate's name so that it will be at or near the top of the list for each office on substantially an equal number of ballots in each house district.

(5) ~~All other candidates shall be designated as either independent candidates or as belonging to minor parties.~~ For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor shall be considered as a group.

(6) ~~If two or more persons are candidates for election to the same office, the registrar shall divide the ballot forms into sets to provide a substantial rotation of the names of candidates as follows:~~ No more than one of the sets may be used in printing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical.

~~(a) He shall divide the whole number of ballot forms for the county into sets equal in number to the greatest number of candidates for any office.~~

~~(b) He shall arrange the sets so that the names of the candidates, beginning with a form arranged in alphabetical order, are rotated by removing one name from the top of the list for each office and placing the name or number at the bottom of the list for each successive set of ballot forms.~~

~~(c) For the purposes of rotating the offices of president and vice president shall be considered as a group.~~

~~(d) No more than one of the sets shall be used in printing the ballot for use in any one precinct and all ballots furnished for use in any precinct shall be identical.~~

~~(e) Candidates of the two major parties shall be rotated so they appear on the ballot before and above any candidates of the minor parties or independent candidates.~~"

Section 97. Section 13-12-207, MCA, is amended to read:

"13-12-207. Order of placement. (1) The order of ~~offices~~ on the ballot ~~in the first column designated "STATE AND NATIONAL"~~ for state and national offices shall be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets by a heavy black line shall be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party shall be grouped together.

(b) United States senator;

(c) United States representative;

(d) Governor and lieutenant governor;

(e) Secretary of state;

(f) Attorney general;

(g) State auditor;

(h) Public service commissioners;

(i) State superintendent of public instruction;

(j) Clerk of the supreme court;

(k) Chief justice of the supreme court;

(l) Justices of the supreme court;

(m) District court judges;

(n) State senators;

(o) Members of the house of representatives.

(2) ~~In---the---column--designated--"COUNTY"v--the~~ The following order of placement shall be observed for county offices:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) ~~county-attorney~~ coroner;

(f) county ~~auditor~~ attorney;

(g) ~~other--offices- in--the--order--designated--by the registrar.~~ county superintendent of schools;

(h) county auditor;

(i) public administrator;

(j) county assessor;

(k) county treasurer;

(l) surveyor;

(m) justice of the peace.

(3) ~~In--the--third--column--constitutional amendments shall-be-followed-by-referendum-and-initiative measures.~~ The secretary of state shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal, charter, consolidated, or confederated local government offices and district offices when the district is part of only one county.

(4) ~~If--any--offices-are-not-to-be-elected,-they-shall not-be-designated-but-the-order--of--offices--to--be--filled shall--maintain--their--relative--positions.~~ Constitutional amendments shall be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision shall follow statewide measures in the order designated by the election administrator.

(5) ~~If-there is a short-term-and-a-long-term--election for--the-same-office,-the-long-term-office-shall-precede-the short-term.~~ If any offices are not to be elected they shall not be listed, but the order of the offices to be filled shall be maintained.

(6) ~~Above each group of candidates for each office shall be printed the words designating the particular office in boldface capital letters and directly underneath the words "VOTE FOR", followed by the number to be elected to such offices.~~ If there is a short-term and a long-term election for the same office, the long-term office shall precede the short-term."

Section 98. Section 13-12-208, MCA, is amended to read:

"13-12-208. ~~Blank space and margin~~ Provision for write-in votes. ~~(1)~~ Below the list of names of candidates for each office there must be enough as many blank spaces to ~~contain as many written names of candidates~~ for write-in voting as there are ~~persons~~ officers to be elected.

~~(2) There must be a margin on each side of at least 1/2 inch in width and a reasonable space between the names so that the voter may clearly indicate the candidate for whom he wishes to cast his ballot.~~"

Section 99. Section 13-12-209, MCA, is amended to read:

"13-12-209. ~~Stub~~ Paper ballots -- stub size and contents -- content. (1) ~~The~~ Paper ~~ballot~~ ballots shall be printed on the same ~~leaf~~ sheet with a stub, separated by perforation.

(2) The stub shall extend the entire width of the

ballot and have instructions printed on it.

(3) Upon the face of the stub shall be printed, ~~in type called brevier capitals,~~ the following:

"This ballot should be marked with an "x" in the square before the name of each ~~person~~ individual or candidate for whom the elector intends to vote. The elector may write in or affix a preprinted label in the blank spaces, or ~~paste~~ over ~~another~~ any other name, the name of ~~a person~~ an individual for whom he wishes to vote and vote by marking an "x" in the square before the name. If a ballot contains a constitutional amendment or other ~~question~~ issue to be submitted to a vote of the people, it is voted on by marking an "x" in the square before the amendment or ~~question~~ issue."

(4) On ~~the front of~~ the stub shall be printed or ~~stamped by the registrar or other officer,~~ the consecutive number of the ballot, beginning with number 1 and increasing in regular numerical order to the total number of ballots required for the precinct."

Section 100. Section 13-12-210, MCA, is amended to read:

"13-12-210. Number of ballots to be provided for each precinct. (1) The ~~registrar~~ election administrator ~~must~~ shall provide each election precinct with sufficient ballots for the electors registered, plus ~~sufficient copies to cover~~

destroyed an extra supply to cover spoiled ballots.

(2) The registrar election administrator shall keep a record in his office showing the exact number of ballots that are delivered to the election judges of each precinct.

~~(3)--In-city-elections-the--city--clerk--shall--provide necessary-ballots.~~"

Section 101. Section 13-12-212, MCA, is amended to read:

"13-12-212. Registrar election administrator to provide printed ballots -- other ballots ~~ineffective~~ prohibited. Except as otherwise provided in the election laws of this state:

(1) the registrar election administrator shall provide printed ballots for every election ~~for public officers.~~ He shall ~~print~~ have printed on the ballot the names of all candidates~~,--including--candidates--for--chief--justice--and justices-of-the-supreme-court-and--judges--of--the--district courts~~ for all offices to be filled at the election and the title and other wording required by law for all ballot issues.

(2) ballots other than those printed by the ~~registrars~~ election administrator may not be cast or counted in any election."

NEW SECTION. Section 102. Sample ballots. The election administrator may have sample ballots printed in a

number sufficient to answer requests from the political parties, schools, and electors. Sample ballots must be duplicates of the official ballots but must be clearly distinguishable from official ballots and may not have perforated stubs or be numbered.

Section 103. Section 13-13-101, MCA, is amended to read:

"13-13-101. ~~Proclamation~~ Duties -- proclamation prior to opening and closing polls. (1) The election judges shall meet at their assigned polling places at the time set by the election administrator. The judges shall take and subscribe the official oath prescribed by the constitution. They may administer the oath to each other. The judges shall check all supplies and complete preparations for voting before the time set for opening the polls, under the direction of the chief election judge.

(2) Before the polls are opened or closed, that fact must be proclaimed at the place of election."

NEW SECTION. Section 104. Provision and use of election booths, voting machines, or voting devices. (1) The election administrator shall provide a sufficient number of booths, voting machines, or voting devices to allow voting to proceed with as little delay as possible. Booths, voting machines, or voting devices must be arranged in a manner that will not permit any other individual to see how the

elector votes or has voted, and the election judges may not permit any individual to remain in any position that would allow him to see how the elector votes or has voted.

(2) No more than one individual may occupy a booth at one time except when assistance is furnished an elector as provided by law. No individual may occupy a booth or use a voting machine or device longer than is reasonably necessary to prepare his ballot, after which the election judges may eject him.

NEW SECTION. Section 105. Display of instructions for electors. (1) Instructions for electors on how to prepare their ballots or use machines or devices must be posted in each compartment provided for the preparation of ballots and elsewhere in the polling place.

(2) The instructions must be in easily read type and explain how to:

(a) obtain ballots for voting;

(b) prepare ballots for deposit in the ballot box; and

(c) obtain a new ballot in place of one spoiled by accident.

(3) If the instructions for use of the machine or device are printed on the machine or device or are part of a ballot package given each elector, separate instructions need not be posted in the compartment.

(4) Official ballots for the precinct, clearly marked

"sample" across the face, shall be posted in each booth or compartment and in conspicuous places about the polling place in all precincts where paper ballots are used. Diagrams showing the arrangement of the ballot for that precinct shall be posted in conspicuous places about the polling place in all precincts using machines or devices.

NEW SECTION. Section 106. Warning notice to be posted. Warning notices shall be posted in conspicuous places in the polling place. Each notice shall be headed "WARNING" in large letters and shall state:

"The sections of law printed below list specific conduct or actions which may cause an elector to be subject to criminal prosecution. This is not intended to be a complete printing of all laws pertaining to election violations."

Below this statement shall be printed the following sections: 13-35-201; subsections (1), (2), and (4) of 13-35-202; 13-35-205(1); subsections (1), (2), and (8) of 13-35-206; subsections (5), (6), and (7) of 13-35-207; subsections (1) and (2) of 13-35-211; 13-35-214; 13-35-217; and subsections (1), (3), and (4) of 13-35-218.

NEW SECTION. Section 107. Marking precinct register book before elector votes. (1) Before an elector is permitted to receive a ballot or vote, he shall sign his name on the place designated in the precinct register.

Before signing the register, the elector shall state his name and current address. If the name or address is not as listed in the precinct register, the elector must complete a transfer form or new registration form to correct the information. The election judges shall write "transfer form" or "registration form" beside the name of any elector submitting a form. No elector may sign the precinct register unless his name and address are the same as shown in the register or the proper corrections have been made.

(2) The election judges shall require an elector not able to sign his name to produce two electors who shall sign an affidavit stating that the elector is the individual whose name and address appears in the precinct register before one or more of the election judges in a form prescribed by the secretary of state. The affidavit shall be filed by the election judges and returned to the election administrator with the returns of the election. One of the judges shall write the elector's name, noting the fact of his inability to sign, and the names of the two electors signing the affidavit.

(3) If the elector fails or refuses to sign his name or, if unable to write, fails to procure two electors who will take the oath required, he may not vote.

NEW SECTION. Section 108. Pollbooks. (1) In precincts using paper ballots, the name of each elector who votes

shall be entered in a pollbook and numbered in the order voting so that the number corresponds with the number on the stubs of the ballots given the elector.

(2) In precincts where machines or devices are used, a pollbook need be used only for paper ballots. The election administrator shall provide such precincts with some method of recording the number of individuals voting.

NEW SECTION. Section 109. Ballots to be stamped -- one ballot to elector. (1) Before delivering ballots to an elector, the election judges shall stamp the words "official ballot" on the back near the top of the ballot. No part of the stamp may appear on the stub. They shall also stamp the name of the county, the number of the precinct, the date of the election, and any other information the election administrator believes necessary to distinguish the ballots from those used in any other election.

(2) Each elector shall receive from the election judges one of each type of ballot being used at the election.

NEW SECTION. Section 110. Method of voting. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "x" in the square before the name of the individual or individuals for whom he intends to vote.

(3) If the ballot contains a ballot issue, he shall mark an "x" in the applicable square indicating his vote either for or against the issue.

(4) The elector may write the name of an individual for whom he wishes to vote in the blank space or affix a preprinted label in the blank space or over any other name and may vote for that individual by marking an "x" before the name. When the ballot is marked in this manner, it must be counted the same as though the name were printed upon the ballot and marked by the elector.

(5) After preparing his ballot, the elector must fold it so the face of the ballot will be concealed and the official stamp may be seen and hand it to the election judges.

(6) The judge receiving the ballots shall remove the stubs in sight of the elector and deposit each ballot in the ballot box and each stub in a box for detached stubs. The judge must place the ballots in the ballot box immediately without opening or examining them.

(7) No individual except an election judge may put a ballot, any paper resembling a ballot, or anything other than a ballot in a ballot box.

(8) Any elector who spoils his ballot may, on returning the spoiled ballot, receive another in place of it.

NEW SECTION. Section 111. Taking ballot to disabled elector -- two judges. (1) The chief election judge may appoint two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. The elector may request assistance in marking his ballot as provided in [section 114].

(2) The judges shall have the elector sign an oath form stating he is entitled to vote and shall write in the precinct register by the elector's name "voted on the premises by oath" and sign their names.

(3) When the ballot or ballots are marked and folded, the judges shall immediately take them into the polling place and give them to the judge at the ballot box. The judge receiving the voted ballots shall distinctly announce he has "a ballot offered by ..... (name), an elector physically unable to enter the room. Does anyone object to the reception of the ballot?" If no objection is heard, the judge shall remove the stub and place the ballot and stub in the proper boxes. Any challenge to the elector's right to vote shall be resolved as provided in [Title 13, chapter 13, part 3].

NEW SECTION. Section 112. Aid to disabled elector. (1) The election judges or a qualified elector of the county

chosen by the disabled elector may aid an elector who, because of physical disability or inability to read or write, needs assistance in marking his ballot.

(2) The election judges shall require the declaration of disability by the elector under oath and may administer the oath.

(3) The elector may be assisted by two judges who represent different parties. The judges must certify on the precinct register opposite the disabled elector's name that the ballot was marked with their assistance. The judges may not reveal information regarding the ballot.

(4) Instead of assistance as provided in subsection (3), the elector may request the assistance of any qualified elector of the county whom he designates to the judges to aid him in the marking of his ballot, and the elector chosen shall sign his name on the precinct register beside the name of the elector assisted.

(5) No elector other than the one who requires assistance may divulge to anyone within the polling place the name of any candidate for whom he intends to vote or may ask or receive the assistance of any individual within the polling place in the preparation of his ballot.

NEW SECTION. Section 113. Poll watchers -- announcement of elector's name. The election judges shall permit one poll watcher from each political party to station

himself close to the poll lists in a location that does not interfere with the election procedures. At the time when each elector signs his name, one of the election judges shall pronounce the name loud enough to be heard by the poll watchers. A poll watcher who does not understand the pronunciation has the right to request that the judge repeat the name. Poll watchers shall also be permitted to observe all of the vote counting procedures of the judges after the closing of the polls and all entries of the results of the elections.

NEW SECTION. Section 114. Additional poll watchers. A candidate, a group of candidates, or any group having an interest in the election may request the election administrator to allow additional poll watchers at any precinct. The election administrator shall grant such requests if the number of poll watchers at the polling place will not interfere with the election procedures.

NEW SECTION. Section 115. Preventing obstructions. An election officer, sheriff, constable, or other peace officer may clear the passageway, prevent any obstruction, and arrest any individual obstructing the passageway to a polling place.

Section 116. Section 13-13-201, MCA, is amended to read:

"13-13-201. Voting by elector when absent from place

of residence or physically incapacitated from going to polls. (1) A qualified registered elector who will be absent from the county or physically incapacitated and unable to go to the polls on the day of election may vote as provided in this part.

(2) Election judges who will be serving in a different precinct than the one in which they are registered may vote by absentee ballot."

Section 117. Section 13-13-203, MCA, is amended to read:

"13-13-203. Absentee ballots where voting machines or devices used. (1) In precincts where voting machines or devices are used, the ~~registrar, city clerk, or clerk of a school district~~ election administrator shall if necessary print and provide:

(a) ballots in official form for possible absent or physically incapacitated ~~voters~~ electors; and

(b) ~~pollbooks and~~ ballot boxes required for precincts in which printed ballots are used.

(2) Absentee ballots received in those precincts shall be handled as provided in this chapter."

Section 118. Section 13-13-211, MCA, is amended to read:

"13-13-211. Application of absentee or physically incapacitated ~~person~~ elector for ballot. During a period

beginning 75 days before the day of election and ending at noon on the day before the election, an elector expecting to be absent from the county in which his voting precinct is situated, an elector in United States service, or an elector who will be unable to go to the polls because of physical incapacity may apply to the ~~registrar or city clerk~~ election administrator for an absentee ballot."

Section 119. Section 13-13-212, MCA, is amended to read:

"13-13-212. ~~Form and manner of application~~ Application for absentee ballot. (1) Application for absentee ballots shall be made ~~on a form furnished by the registrar of the county of which the applicant is an elector, the city clerk, or clerk of a first class school district. The form shall be prescribed by the secretary of state except as provided in 28-26-104.~~ by a written request signed by the applicant and addressed to the election administrator of the applicant's county of residence.

~~(2) The applicant shall subscribe the application, affirming that the information contained in the application is true and complete to the best of his knowledge. The application is not complete without this affirmation.~~

~~(3)~~(2) Application for an absentee ballot may be made by any elector in the United States service by the federal post card application or by any written request signed by

the applicant and addressed to the ~~registrar~~ election administrator of the applicant's county of residence."

Section 120. Section 13-13-213, MCA, is amended to read:

"13-13-213. Transmission of application to county clerk election administrator. (1) The elector shall forward the application by mail or deliver it in person to the ~~registrar~~ election administrator.

(2) The ~~registrar~~ election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the ~~person~~ individual making the application is the same as the one whose name appears on the registration card, he shall deliver the ballot."

Section 121. Section 13-13-214, MCA, is amended to read:

"13-13-214. Mailing ballot to elector. (1) ~~Either upon receipt of the application or immediately after the official ballot for the precinct in the applicant's ward or has been printed, the registrar, county clerk, or clerk of first class school district shall send a copy of the ballot prepaid, whatever official ballot are necessary. As soon as~~ the official ballots are printed, the election administrator shall send by mail, postage prepaid, to each elector from whom he has received a valid application whatever official

ballots are necessary. Ballots shall be sent immediately to electors submitting valid requests after the official ballots are printed.

(2) ~~The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post office address of the officer sending it, and upon the other side a printed affirmation in a form prescribed by the secretary of state.~~ The election administrator shall enclose with the ballots a self-addressed envelope for the return of the ballots. An affirmation in the form prescribed by the secretary of state shall be printed on the back of the envelope.

(3) The election administrator shall stamp the ballots sent to an absentee elector as provided in [section 106].

~~(3)~~(4) Both the envelope in which the ballot is mailed to an elector by the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each 1/4-inch wide, extending from one side of the envelope to the other with an intervening space of 1/4 inch, with the word "Official Election Ballot" (official election ballot) between the bars. In the upper right-hand corner shall be printed "Free of U.S. Postage". In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red. The gummed flap

of the envelope supplied for the return of the ballot shall be separated by 6x6 paper or other appropriate protective insert. Voting instructions provided in subsection ~~(5)~~ (6) shall include a procedure to be followed by absentee ballot electors, such as notation of the initials on the back of the envelope, duly signed by the voter's elector, in instances of adhesion of the ballot to the material.

~~(4) The person to whom a self-addressed envelope is mailed shall be a registrar or city clerk.~~

(5) If the ballot sent to the elector for a primary election the election administrator shall include an extra envelope marked "Party Ballot(s)". This envelope may be sealed or marked in any way so it can be identified as being used by the same elector.

~~(5)~~(6) Instructions for voting shall be enclosed with the ballots. ~~For 24 hours a the United States service. Instructions shall include information concerning the type or types of writing instruments which may be used to mark the absentee ballot.~~ Instructions for primary elections must include use of the envelope for unvoted ballots. The instructions must include information concerning the type or types of writing instruments which may be used to mark the absentee ballot.

(7) The return envelope shall be self-addressed to the election administrator."

Section 122. Section 13-13-221, MCA, is amended to read:

"13-13-221. Marking and affirming ballot ~~by elector.~~

(1) ~~The elector shall complete the affirmation at the time he executes the ballot.~~ After the elector marks his ballots, he shall fold them so that the vote is concealed and so that the official stubs are visible. The stubs shall be left attached and the ballots shall be folded so that the stubs can be detached without showing the vote.

~~(2) The person shall mark each ballot in a manner so no other person can see the vote.~~ The elector shall place the ballots in the envelope addressed to the election administrator and seal it securely. If the ballots are for a primary election, the party ballot or ballots not voted shall be placed in the envelope marked for that purpose and enclosed in the outer envelope with the voted ballots.

~~(3) The elector shall fold the ballot to conceal the vote and shall place it in the envelope and seal it.~~ The elector shall complete and sign the affirmation on the envelope.

~~(4) The elector shall sign at the end of the certificate and affirmation.~~

~~(5)~~(4) The elector shall mail the envelope, postage prepaid, or deliver it to the ~~registrar, city clerk, or clerk of a first-class school district~~ election

administrator."

Section 123. Section 13-13-222, MCA, is amended to read:

"13-13-222. Voting before election day by prospective absentee or physically incapacitated elector. (1) An elector who is present in his county after the official ballots ~~of his county or school district~~ have been printed and who has reason to believe that he will be absent from the county ~~or school district~~ or physically incapacitated on election day may vote before election day before the ~~registrar, city clerk, or school district clerk~~ election administrator.

(2) The provisions of this chapter apply to such voting.

(3) If the ballot is marked before the ~~registrar, city clerk, or school district clerk~~ election administrator, he shall deal with it in the same manner as if it had come by mail."

Section 124. Section 13-13-231, MCA, is amended to read:

"13-13-231. Disposition of marked ballot upon receipt by ~~registrar or clerk~~ election administrator. (1) Upon receipt of the ~~envelope, the registrar, city clerk, or clerk of a first class school district~~ voted absentee ballot, the election administrator shall immediately ~~enclose it in a larger~~ attach the elector's application to the envelope,

~~together with the elector's application, and seal the larger envelope~~ and mark the precinct number for delivery.

(2) The ~~registrar, city clerk, or clerk of a first class school district~~ election administrator shall safely keep ~~it~~ the absentee ballots in his office until delivered ~~or mailed~~ by him."

Section 125. Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots to election judges — ballots to be rejected. (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the ~~registrar or clerk~~ election administrator shall deliver the ~~larger~~ envelope to the judges at the same time the ballots are delivered.

(2) If absentee ballots are received after the ballots are delivered to the election judges but prior to the close of the polls, the ~~registrar or clerk~~ election administrator shall immediately deliver the ~~larger~~ envelopes to the judges.

(3) If absentee ballots, for which an application was not received prior to noon on the day preceding an election, are received by the ~~registrar or clerk~~ election administrator or if absentee ballots are received by the ~~registrar or clerk~~ election administrator after the close of the polls, ~~the clerk~~ he shall endorse upon the voter's

elector's envelope the date and exact time of receipt and the words "~~to~~ to be rejected". Absentee ballots so endorsed shall be ~~delivered to the election judges of the precinct or~~ retained by the election administrator ~~registrar or clerk if the judges have adjourned and shall be rejected~~ and placed with the proper records when they are returned to him."

Section 126. Section 13-13-233, MCA, is amended to read:

"13-13-233. ~~Registrar or clerk to keep record of ballots and issue certificate~~ Issue and record of absentee ballots -- certificate. (1) The absentee ballots delivered shall be regular official ballots beginning with ballot number ~~one~~ 1 and following consecutively~~,~~ according to the number of applications for absentee ballots.

(2) The ~~registrar, city clerk, or school district clerk~~ election administrator shall keep a record of all absentee ballots delivered, as well as of ballots marked before him.

(3) The ~~registrar, city clerk, or school district clerk~~ election administrator shall deliver to the chief election judges to whom the ballots are delivered a certificate stating:

(a) the number of absentee ballots delivered as well as those marked before him; ~~and~~

(b) the number of ballots retained for late absentee

voting; and

~~(b)~~(c) the names of the ~~voters~~ electors to whom such ballots ~~are~~ were delivered or by whom they have been marked if marked before him."

NEW SECTION. Section 127. Elector voting absentee ballot may vote in person -- effect of absentee elector's death. (1) If an elector has voted by absentee ballot but on election day is present in the county and able to go to the polls or if he learns his absentee ballot has been rejected by the judges as provided in 13-13-235 and [section 130], the elector may vote in person at his polling place. If voting machines or devices are used, he may vote by machine or device.

(2) If an elector votes by absentee ballot and dies between the time of balloting and election day, his ballot does not count.

Section 128. Section 13-13-234, MCA, is amended to read:

"13-13-234. Duty of election judges -- pollbooks ~~and numbering ballots~~. (1) The election judges, at the opening of the polls, shall note on the pollbooks opposite the numbers corresponding to the number of absentee ballots issued the fact that the ballots were issued and reserve the numbers for the absent or physically incapacitated ~~voters~~ electors. The notation may be made by writing the words

"absent or physically incapacitated voters" opposite the numbers.

(2) The election judges shall insert only the name of the elector entitled to each particular number according to the certificate of the registrar or city clerk election administrator and the number of his ballot."

Section 129. Section 13-13-235, MCA, is amended to read:

"13-13-235. Envelopes containing ballots -- deposit in box and rejection of ballot Examination of absentee ballot envelopes and affidavits while polls open. (1) While the polls are open on election day, the election judges shall first open the outer envelope only and may compare the signature of the voter on the application and on the affirmation. elector on the absentee ballot request and affirmation. If they find that the signatures correspond, that the affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall place the absentee elector's envelope in a box or envelope marked "unopened -- checked and valid absentee ballots".

(2) If the election judges find that the signatures correspond, that the affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots. If the absentee ballot does not meet the

requirements specified in subsection (1), it shall be rejected. The election judges, without opening the absentee ballot envelope, shall mark across it the reason for rejection, and a majority of the judges shall sign their initials. Unopened rejected absentee ballot envelopes shall be handled in the same manner as provided for rejected ballots in 13-13-236 and 13-13-237.

(3) Without unfolding the ballots or permitting them to be examined, the election judges shall ascertain whether the stubs are still attached and whether the numbers correspond to the numbers in the certificate of the registrar or city clerk. If so, they shall endorse the ballots the same way that other ballots are endorsed, detach the stubs, deposit the ballots in the proper ballot boxes and make entries in their election records to show the election has voted.

(4) If in a general election the number does not [illegible] the voter has already voted, the election judges [illegible] the ballot shall mark [illegible] as "rejected as not [illegible]".

(5) If in opening the absentee ballot envelope they find that the stub of any ballot has been detached or that the number does not correspond to the number on the certificate of the registrar or clerk, the ballot shall be

~~rejected. It shall be marked on back as "rejected for ____", filling the blank with the reason. This statement shall be dated and signed by a majority of the election judges.~~

~~(6) The absentee ballot envelope, when it has been voted, shall be deposited in the ballot box containing the general or party ballots and shall be retained and preserved in the manner provided for official ballots."~~

NEW SECTION. Section 130. Procedure for absentee ballots after polls close. (1) After the polls close, the election judges shall complete the procedures required in 13-13-235 for any absentee ballots not examined while the polls were open.

(2) After all unopened ballot envelopes have been examined, the judges shall open the valid absentee ballot envelopes and, without unfolding the ballots or permitting them to be examined, shall ascertain whether the stubs are attached or enclosed and whether the numbers correspond to the numbers in the certificate of the election administrator. If so, they shall detach the stubs, deposit the stubs and ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted. In a primary election, the unvoted ballots shall be deposited in the unvoted ballot box without being removed from their enclosure envelope.

(3) When the ballot has been voted, the absentee ballot envelope shall be deposited in the ballot box containing the voted ballots and shall be retained and preserved in the manner provided for official ballots.

(4) If upon opening the absentee ballot envelope it is found that the number does not correspond to the number on the certificate of the election administrator, the ballot shall be rejected. The reason for rejection shall be marked on the back of the ballot or ballots and the statement shall be initialed by a majority of the election judges.

Section 131. Section 13-13-236, MCA, is amended to read:

"13-13-236. Rejected absentee ballots. (1) The rejected ballots, ~~together with the absentee ballot envelope bearing the application,~~ the applications, and all envelopes shall be enclosed in an envelope, and sealed, and the judges shall write on the envelope, "rejected ~~ballot~~ ballot(s) of absentee ~~voter~~ elector" (writing in the elector's name), ~~"The rejected ballot(s) is (are) ____"~~.

(2) ~~The election judges shall designate the rejected ballot as "general ballot", if it is a ballot for candidates.~~ The unopened absentee ballot envelope of an elector who has voted in person on election day as provided in [section 127] shall be marked "voted in person" and initialed by a majority of the election judges.

(3) ~~If the rejected ballot is on a question--submitted to--the--vote of the electors, the judges shall designate it as ballot question No. ____ on the envelope.~~ The unopened absentee ballot envelope of an elector who dies before election day shall be marked "died before election day" and initialed by a majority of the election judges if they are notified of the death on election day. The election administrator shall make and sign the notation if notice of the death is received before delivery of the absentee ballot to the polling place.

(4) All rejected ballots shall be placed in the sealed package in which the voted ballots are required to be placed and may not be opened without a court order."

Section 132. Section 13-13-301, MCA, is amended to read:

"13-13-301. Challenges ~~by--registered--electors~~ on election day. (1) An elector's right to vote may be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(2) ~~A--person~~ An individual offering to vote may be orally challenged by any elector of the county upon the following grounds:

(a) that he is not the ~~person~~ individual whose name appears on the register ~~or checklist~~;

(b) that he does not reside at the residence listed unless the elector is voting under the provisions of 13-2-512 and 13-2-514;

~~(b)~~(c) that he is of unsound mind, as determined by a court;

~~(c)~~(d) that he has voted before in that election; or

~~(d)~~(e) that he has been convicted of a felony and is serving a sentence in a penal institution."

NEW SECTION. Section 133. Vote by challenged elector. (1) Whenever an individual's right to vote at an election is challenged under 13-2-404 or 13-13-301 then an election judge shall write in the pollbook at the end of the individual's name the words "challenged and sworn", with the name of the challenger, if known. The elector so challenged shall vote by paper ballot. The election judge shall then write upon the b ck of the ballot offered by the challenged elector the number of his ballot. The ballot may be cast out if it appears to the court to have been for any reason wrongfully or illegally voted.

(2) Placing information on a ballot or pollbook under provision of subsection (1) or divulging such information in a legal proceeding subsequent to the election does not constitute a violation of 13-35-202 or 13-35-207.

Section 134. Section 13-13-304, MCA, is amended to read:

"13-13-304. Duties of election judges in response to challenges. The election judges shall:

(1) test the qualifications of the elector challenged under oath if he applies to vote;

(2) compare the answers of the elector with the entries in the precinct register~~books~~; and

(3) not permit him to vote if the elector:

(a) is found to be disqualified because the answers given do not correspond to the entry in the precinct ~~registers~~ register or any transfer form or registration form submitted by the elector;

(b) is disqualified for any cause under the law;

(c) refuses to be sworn and to answer questions touching the matter of residence; or

(d) refuses to take an oath or affirmation as to his qualifications."

Section 135. Section 13-13-306, MCA, is amended to read:

"13-13-306. Proceedings pursuant to challenges — oaths. (1) If the challenge is on the ground that the ~~person~~ individual is not the ~~person~~ elector whose ~~name~~ appears on the official register, the election judges shall administer the following oath: "~~You~~ I, ..., (name of elector), do swear (or affirm) that ~~you are~~ I am the ~~person~~ individual whose ~~name~~ is entered on the official register and precinct

list."

(2) If the challenge is on the ground that the individual does not reside at the residence listed, the judges shall administer this oath: "I, ..., (name of elector), do swear (or affirm) that I reside at ..... (state precise address), which is the address listed on the official register."

~~(2)~~(3) If the challenge is on the ground that the ~~person~~ individual has voted before in that election, the judges shall administer this oath: "~~You~~ I, ..., (name of elector), do swear (or affirm) that ~~you~~ I have not voted before in this election."

~~(3)~~(4) If the challenge is on the ground that the ~~person~~ individual has been convicted of a felony and is serving a sentence in a penal institution, the judges shall administer the following oath: "~~You~~ I, ..., (name of elector), do swear (or affirm) either that ~~you~~ I have not been convicted of a felony or that, if ~~you~~ I have been convicted of a felony, ~~you are~~ I am not serving a sentence in a penal institution."

(5) The election judges may administer any other oath relating to the individual's qualification to vote that they feel necessary."

Section 136. Section 13-13-307, MCA, is amended to read:

"13-13-307. Determination of challenges. ~~(1)~~ Challenges ~~on the grounds that the person is not the person whose name appears on the official register or that the person has before voted that day~~ are determined in favor of the ~~person~~ individual challenged by his taking the oath tendered.

~~(2) A challenge that the person has been convicted of a felony and not pardoned must be determined in favor of the challenged on his taking the oath tendered.~~"

Section 137. Section 13-13-309, MCA, is amended to read:

"13-13-309. Proceedings after determination of challenge. If the challenge is determined against the ~~person~~ individual offering to vote, the ~~ballot shall, without examination, be destroyed by the election judges in the presence of the person offering the challenge~~ individual may not be allowed to receive a ballot or vote by any other means and the precinct register shall be so marked. If determined in favor of the person individual offering to vote, ~~the ballot must be deposited in the ballot box~~ he shall be allowed to vote."

Section 138. Section 13-13-310, MCA, is amended to read:

"13-13-310. List of challenges to be kept. The election judges shall ~~require each election clerk to~~ keep a

list showing:

(1) the names of all ~~persons~~ individuals challenged;

(2) the name of the elector or judge offering the challenge, if known;

~~(2)~~(3) the grounds of each challenge;

~~(3)~~(4) the determination of the election judges upon the challenge."

NEW SECTION. Section 139. Application of general laws. Candidates for nonpartisan offices, including judicial offices, shall be nominated and elected according to the provisions of this title except as otherwise provided in [Title 13, chapter 14].

NEW SECTION. Section 140. Declarations for nomination — fee. (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in [section 137].

(2) Declarations may not indicate political affiliation. The candidate may not state in his declaration any principles or measures he advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the position he seeks.

(4) Declarations shall be filed in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201. Time of filing shall be the same

as provided in 13-10-201.

NEW SECTION. Section 141. Filing for offices without salary or fees. (1) Candidates for nonpartisan offices for which no salary or fees are paid shall file with the appropriate official a statement of candidacy and nominating petition in a form prescribed by the secretary of state.

(2) The nominating petition must contain the signatures of registered electors of the election district in which the office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful candidate for that office at the last general election, but in no case may it be less than five signatures.

(3) The number of signatures necessary for a nominating petition for an office not previously on the ballot or for which the election district boundaries have changed since the last general election shall be determined by the secretary of state.

(4) Statements of candidacy and nominating petitions shall be filed at the same time provided in 13-10-201 for other candidates and offices.

NEW SECTION. Section 142. Register of candidates -- certification. (1) On receipt of a declaration, the secretary of state or election administrator shall make an entry in the register of candidates for nomination, on a

page different from entries made for candidates of political parties.

NEW SECTION. Section 143. Preparation and distribution of nonpartisan primary ballots. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". They shall be arranged as other primary ballots and be without political designation.

(2) The number of nonpartisan primary ballots and sample ballots furnished shall be the same as other primary ballots.

NEW SECTION. Section 144. Separate counting and canvassing of nonpartisan ballots -- application of general laws. (1) After closing the polls, the election officers shall separately count, canvass, record, and certify nonpartisan ballots, showing the number of votes cast for each person.

(2) Nonpartisan ballots, stubs, and unused ballots shall be disposed of in the same manner as other ballots, stubs, and unused ballots. Returns shall be made as provided by law.

NEW SECTION. Section 145. Placing names on ballots for general election. Candidates for nomination equal to twice the number to be elected at the general election who

receive the highest number of votes cast at the primary are the nominees for the office. If the number of candidates is not more than twice the number to be elected, then all candidates are nominees for the office.

NEW SECTION. Section 146. Vacancies among nominees after nomination and before general election. (1) If after the primary a candidate is not able to run for the office for any reason, the vacancy shall be filled by the candidate next in rank in number of votes received in the primary election.

(2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the vacancy occurs no later than 50 days before the general election, a 10-day period for accepting declarations for nomination or statements of candidacy and nominating petitions for the office shall be declared by:

(a) the governor for national, state, judicial district, legislative, or any multicounty district office;

(b) the governing body of the appropriate political subdivision for all other offices.

(3) The names of the candidates who filed as provided in subsection (2) shall be certified and printed on the general election ballot in the same manner as candidates nominated in the primary.

(4) If the vacancy occurs later than 50 days before

the general election and no qualified individual is elected to the office at the general election, the office shall be vacant and shall be filled as provided by law.

NEW SECTION. Section 147. Judicial offices separate and independent offices for election purposes. (1) Each vacancy for justice of the supreme court is a separate and independent office for election purposes. The chief justice of the supreme court shall assign an individual number to the justices and certify these numbers to the office of the secretary of state.

(2) Each judicial office in a district which has more than one district judge is a separate and independent office for election purposes.

(3) Each office in a county which has more than one justice of the peace is a separate and independent office for election purposes.

NEW SECTION. Section 148. Form of ballot on retention of incumbent judicial officers. In the event there is no candidate other than the incumbent for the office of chief justice, supreme court justice, district court judge, or justice of the peace, the name of the incumbent shall be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the

state of Montana be retained in office for another term?

☐ YES

☐ NO

(Mark an "x" before the word "YES" if you wish the official to remain in office. Mark an "x" before the word "NO" if you do not wish the official to remain in office.)

NEW SECTION. Section 149. Form of ballot on retention for other offices. The election administrator or secretary of state shall use the form prescribed in [section 147] to place the name of an unopposed incumbent for a judicial office on the general election ballot if such office is subject to the provisions of Article VII, Section 9, of The Constitution of the State of Montana.

NEW SECTION. Section 150. Counting board. (1) In any precinct where a counting board has been appointed in addition to the regular board of election judges, the counting board shall meet at a place designated by the election administrator.

(2) The election administrator may provide duplicate boxes for voted ballots and duplicate pollbooks if any precinct for which a counting board has been appointed and may arrange for the counting board to begin the count of the votes cast before the polls close. The counting board shall be sequestered in a separate room from where the ballots are being cast until after the polls close. The counting board

shall proceed by counting all ballots in the first box and then that box and pollbook shall be exchanged for the second box and duplicate pollbook. The board shall continue counting until the votes cast for all candidates and issues are counted.

(3) The election administrator may have the counting board for a precinct begin work as soon as the polls close instead of using the procedure outlined in subsection (2).

(4) In a county where voting devices are used, the election administrator may make provisions for the delivery of voted ballots to the counting center at any time prior to the closing of the polls. The ballots may be processed and counted as they are received, but the results of this early count may not be released to the public until after all the polls are closed.

(5) No election judge or other individual having access to the information may disclose any results of early counting while the polls are open.

Section 151. Section 13-15-101, MCA, is amended to read:

"13-15-101. Votes to be publicly ~~canvassed~~ counted upon closing of polls. (1) When the polls are closed, the election judges shall immediately ~~canvass~~ count the votes. The ~~canvass~~ count shall be public and continue without adjournment until completed and the result is publicly

declared.

(2) Immediately after all the ballots are ~~voted~~ counted in each precinct, the election judges shall copy the total votes cast for each candidate and for and against each proposition on the ~~blanks~~ return forms furnished by the ~~registrars in 13-12-105~~ election administrator.

(3) The election judges shall immediately post one of the ~~blanks~~ return forms at the polling place and send return a copy ~~by mail~~ to the ~~registrar~~ election administrator. both forms shall be signed by all the election judges completing the count."

Section 152. Section 13-15-201, MCA, is amended to read:

"13-15-201. ~~Method of canvass~~ Preparation for count. (1) ~~The canvass shall~~ To begin by ~~a comparison of the pollbooks and the correction of any mistakes until they agree.~~

~~(2) The~~ the count after the close of the polls, the election judges shall take ballots out of the box unopened to determine whether each ballot is single.

~~(3)~~(2) They shall count the ballots to ensure that the number of ballots corresponds with the number of names on the pollbooks.

(3) If they cannot reconcile the total number of ballots with the pollbook they must submit a written report

stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. All judges must sign the report.

(4) A ballot which is not endorsed by the official stamp is void and ~~shall~~ may not be counted. ~~A ballot or part of a ballot is void and shall not be counted if the elector's choice cannot be determined. If part of a ballot is sufficiently plain to determine the elector's intention, the election judges shall count that part~~ unless the judges agree the stamp is missing because of their error. Such ballot shall be marked "unstamped by error" on the back and must be initialed by all judges.

(5) If two or more ballots are folded together to look like a single ballot, they shall be laid aside until the count is completed. The election judges shall compare the count with the pollbooks, and if a majority ~~believe~~ believes that the ballots folded together were voted by one elector, they must be rejected; otherwise they must be counted.

~~(6) If the ballots exceed the number of names on the pollbook, they shall be placed in the box and one of the elector judges shall randomly draw from the box and destroy unopened ballots equal to the excess. The election judges shall record on the pollbooks the number of ballots destroyed.~~"

Section 153. Section 13-15-202, MCA, is amended to

read:

"13-15-207. Counting ~~ballots~~ votes cast -- ~~pollbooks~~ pollbook. (1) When ~~the--ballots--and poll-lists agree~~ the procedures required by 13-15-201 are completed, the election judges shall count and determine the votes cast for each ~~person~~ individual.

(2) In counting, the ballots shall be opened singly by one of the election judges and the contents read aloud to the other judges.

(3) A ballot or part of a ballot is void and shall not be counted if the elector's choice cannot be determined. If part of a ballot is sufficiently plain to determine the elector's intention, the election judges shall count that part.

~~(3)~~(4) As the ballots are read, ~~each clerk~~ two judges must write on a tally sheet the name of every ~~person voted for~~ individual and the office voted for and keep tallies of the number of votes for each ~~person~~ individual.

~~(4)~~(5) The tally sheets shall be compared and their correctness ascertained, and the ~~clerks--under--the supervision-of-the-election~~ judges, shall immediately write in the ~~pollbooks~~ pollbook:

(a) the names of all ~~persons~~ individuals who received votes;

(b) the offices for which they received votes;

(c) total votes received by each ~~person~~ individual as shown by the tally sheets.

~~(5)~~(6) In making the ~~official--canvass~~ count in precincts where voting machines are used, the votes cast by absentee ballot shall be added to the votes cast on the voting machines.

~~(6)~~(7) A ballot or vote rejected by the election judges ~~shall~~ may not be included in the count."

Section 154. Section 13-15-204, MCA, is amended to read:

"13-15-204. Signing and certifying pollbooks. Immediately after the votes are counted and the ballots sealed up, the ~~pollbooks~~ pollbook shall be signed and certified to by the election judges ~~and clerks~~ in a form prescribed by the secretary of state.

Section 155. Section 13-15-205, MCA, is amended to read:

"13-15-205. Items to be ~~sent~~ delivered to ~~registrar~~ election administrator by election judges -- ~~manner of sending~~ disposition of other items. (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely ~~sealed--and--directed--to--the--registrar~~ fastened:

(a) the precinct ~~registrar's~~ register;

(b) the ~~list~~ list of ~~persons~~ individuals challenged;

(c) ~~both of~~ the ~~pollbooks~~ pollbook;

(d) both of the tally sheets.

(2) The election judges shall enclose in a separate package or envelope, securely sealed, ~~and directed to the registrar~~, all unused ballots with the numbered stubs attached.

(3) The election judges shall enclose in a separate package or envelope, securely sealed ~~and directed to the registrar~~, all ballots voted, including those not counted or allowed, and ~~all~~ detached stubs from all counted or rejected absentee ballots ~~voted~~. This envelope shall be endorsed on the outside "ballots voted". At the primary election, the unvoted party ballots shall be enclosed in a separate package or envelope, securely sealed, and marked on the outside "unvoted ballots".

(4) Each election judge shall write his name across ~~the seal of each of the envelopes or packages~~ all seals. ~~The ballot box shall be returned to the registrar.~~

(5) The return form provided for in 13-15-101 shall be returned with the items provided for in this section but may not be sealed in any of the packages.

~~(5)~~(6) The envelopes or packages required by this section shall be delivered to ~~one of the election judges chosen by lot, unless otherwise agreed upon, before they adjourn. The judge shall deliver them to the registrar in~~

~~person or by registered mail no later than 10 a.m. on the day following the election~~ the election administrator by the chief election judge or another judge appointed by the chief judge in the manner ordered by the election administrator.

(7) The election administrator shall instruct the chief election judge in writing on the proper disposition of all other election materials and supplies."

Section 156. Section 13-15-301, MCA, is amended to read:

"13-15-301. Disposition of items by ~~registrar~~ election administrator. (1) ~~When the registrar receives the packages or envelopes, he shall file those containing the voted ballots and detached stubs and those containing the unused ballots and keep them unopened for 12 months. After 12 months, if there is no contest begun in a court or no recounty, he shall either open them or examine their contents. If he burns the envelopes in an approved incinerator, destroys them in a mechanical shredder or buries them in a sanitary landfill under his on-site supervision.~~

~~(2)~~ The ~~registrar~~ election administrator shall file the envelopes or packages containing the precinct registers, pollbooks, tally sheets, certificates of registration, and oaths of election officers. He shall keep them unopened until the ~~commissioners meet~~ county board of canvassers meets to canvass the returns. The ~~commissioners~~ board shall

open the envelopes or packages.

~~(1)~~(2) Immediately after the returns are canvassed, the ~~registrar~~ election administrator shall file the pollbooks, election records, and the papers delivered to the ~~commissioners~~ board of canvassers with the unopened packages of ballots and ballot stubs."

Section 157. Section 13-15-401, MCA, is amended to read:

"13-15-401. County ~~commissioners~~ governing body as board of county canvassers. (1) The ~~commissioners are~~ governing body of a county, consolidated, or confederated local government is ex officio a board of county canvassers and shall meet as the board of county canvassers at the usual place of meeting of the ~~commissioners~~ governing body within 3 days after each election, at 8 a.m., to canvass the returns.

(2) If one or more of the ~~commissioners~~ members of the governing body cannot attend the meeting, his place shall be filled by one or more county officers ~~in this order: treasurer, assessor, sheriff,~~ chosen by the remaining members of the governing body so that the board of county canvassers' membership equals the membership on of the board ~~of commissioners~~ governing body.

(3) ~~The registrar, as clerk of the board of county canvassers.~~ The governing body of any political subdivision

in the county that participated in the election may join with the governing body of the county, consolidated, or confederated local government in canvassing the votes cast at the election.

(4) The election administrator is secretary of the board of county canvassers and shall keep minutes of the meeting of the board and file them in the official records of his office."

Section 158. Section 13-15-402, MCA, is amended to read:

"13-15-402. ~~Canvass~~ Count of votes by county board -- procedures if all returns not received by time of canvass. (1) If all returns are in at the time of the meeting, the board of county canvassers shall immediately canvass the returns.

(2) If all returns are not received, the board shall postpone the canvass from day to day until all returns are received ~~or until there have been seven postponements.~~

(3) If the returns from an election precinct have not been received by the ~~registrar~~ election administrator within ~~7~~ 3 days after an election, he shall immediately ~~send a messenger to the~~ advise the chief election ~~judges~~ judge. ~~The messenger must obtain the returns from the judges and return them to the registrar.~~

(4) If it appears to the board that the polls were not

open in a precinct, the board shall certify this to the ~~registrar~~ election administrator. The ~~registrar~~ election administrator shall enter the certification in the minutes and in the ~~statement~~ record required by 13-15-404."

Section 159. Section 13-15-403, MCA, is amended to read:

"13-15-403. ~~County canvass~~ Canvass to be public -- nonessentials to be disregarded. (1) The canvass shall be public. It shall proceed by opening the returns, auditing the tally books or other records of votes cast for errors, determining the vote for each ~~person~~ individual and for and against each ~~proposition~~ ballot issue from each precinct, compiling totals, and declaring or certifying the results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

~~(2)~~(3) The returns ~~shall~~ may not be rejected because of failure to show who administered the oath to the election judges, ~~or clerks, because of~~ failure to complete all the certificates in ~~the pollbooks~~ a pollbook, or because of failure of any other act making up the returns that is not essential to determine for whom the votes were cast."

Section 160. Section 13-15-404, MCA, is amended to read:

"13-15-404. ~~Statement of results~~ Information to be entered of on record. ~~As soon as the results are declared,~~

~~the clerk of the board shall enter on the records:~~

~~(1) votes cast in the county;~~ The secretary of the board shall prepare and file in the official records of his office a report of the canvass which lists:

(a) the total number of electors voting in each precinct, municipality, district, or portion of a district in the county and the total in the county;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue;

(d) the votes by precinct, municipality, district, or portion of a district within the county for each individual and for and against each ballot issue; and

(e) the total votes in the county for each individual and for and against each ballot issue.

~~(2) votes of the persons voted for and the propositions voted upon.~~ Write-in votes for an individual shall be entered in the report in the same place as the votes for other individuals for the same office but shall be identified as write-in votes.

~~(3) offices for which each person was voted;~~

~~(4) votes by precinct for each person and for and against each proposition;~~

~~(5) votes by county for each person and for and against each proposition.~~"

Section 161. Section 13-15-405, MCA, is amended to read:

"13-15-405. Declaration or certification of results of ~~persons elected.~~ (1) The board shall declare ~~nominated~~ or elected the ~~persons~~ individuals having the highest number of votes ~~given~~ cast for each county and ~~district~~ precinct office, ~~voted for in only one county, other than a legislator or a judge of the district court and each precinct office~~ except as provided in 13-10-205.

~~(2) If there is a tie vote, the board making the canvass shall certify the vote.~~ The board shall proclaim the adoption or rejection of a county ballot issue.

~~(a) to the registrar, if the election was for a county or district office voted on in only one county, other than a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county;~~

~~(b) to the secretary of state, if the election was for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court or a ballot issue voted on in more than one county.~~

(3) The board shall certify the results of the canvass of votes cast for individuals for political subdivision offices and for and against political subdivision ballot issues to the governing body of each political subdivision

participating in the election.

(4) If there is a tie vote for a county office, an office of a political subdivision wholly within the county, a precinct office, or a ballot issue voted on only in that county or portion of that county, the board shall certify the vote to the election administrator."

Section 162. Section 13-15-406, MCA, is amended to read:

"13-15-406. Certificates to be issued by the ~~clerk~~ election administrator. (1) The ~~clerk~~ election administrator shall, ~~immediately~~ except as provided in 13-37-127, deliver ~~to each person declared elected by the board~~ a certificate of election ~~signed by him and authenticated with the seal of the board~~ to each individual declared elected by the board.

~~(2) the certificate shall state that the official bond must be filed within 30 days after notice of election or appointment and that failure to file the bond vacates the office.~~"

Section 163. Section 13-15-501, MCA, is amended to read:

"13-15-501. ~~State returns, how made and transmitted~~ Certification of canvass to state canvassers. (1) ~~After a general or special election, the clerk shall make an abstract of the vote for congressional offices, state or district offices voted for in more than one county, members~~

of the legislature, and judges of the district court. The board of county canvassers shall certify the vote for each individual for whom votes were cast for the offices of president and vice president of the United States, congressional offices, state or district offices voted for in more than one county, members of the legislature, judges of the district courts, and for and against ballot issues voted on in more than one county to the board of state canvassers. The certification shall contain all the information required in 13-15-404 for such candidates and issues.

(2) The clerk shall seal the abstract, endorse it "Election Returns", and immediately send it to the secretary of state by certified or registered mail. The secretary of the board shall send the certification to the secretary of state by certified mail in an envelope marked "election returns".

Section 164. Section 13-15-502, MCA, is amended to read:

"13-15-502. Composition and meeting of board of state canvassers. Within 20 days after the election, or sooner if the returns are all received, the state auditor, superintendent of public instruction, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary

of state, who is shall serve as secretary of the board, shall make out keep minutes of the meeting of the board, and file in his office a statement of the canvass and transmit a copy to the governor them in the official records of his office."

Section 165. Section 13-15-503, MCA, is amended to read:

"13-15-503. Sending messenger for returns Notification if returns not received from counties. If the returns from all counties have not been received 5 3 days before the meeting of the board of state canvassers, the secretary of state shall immediately send a messenger to the registrar advise the election administrator of each delinquent county. The registrar shall furnish the messenger with a certified copy of the statement required by 13-15-404."

NEW SECTION. Section 166. Canvass to be public — procedure. (1) The canvass shall be public. It shall proceed by opening the returns from each county, auditing the records from each county for errors, determining the vote for each individual and for and against each ballot issue in each county, compiling totals, and declaring and certifying the results.

(2) The board shall record all write-in votes shown in the returns received from each county.

NEW SECTION. Section 167. Report of the canvass. (1)

The secretary of the board shall prepare and file in the official records of his office a report of the canvass which lists:

(a) the total number of electors voting in each county and in each legislative house district and the total in the state;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue; and

(d) the votes by county and legislative house district and the total votes for each individual and for and against each ballot issue.

(2) Write-in votes for an individual shall be entered in the report in the same place as votes of other individuals for the same office but shall be identified as write-in votes.

NEW SECTION. Section 168. Declaration, proclamation and certification of results. The board shall declare nominated or elected the individual having the highest number of votes cast for each office, except as provided in 13-10-204. The board shall proclaim the adoption or rejection of ballot issues. Certified copies of the report required in [section 160], the declaration of nominated or elected individuals, the proclamation of adoption or rejection of ballot issues, and the effective date of

adopted ballot issues shall be delivered to the governor.

Section 169. Section 13-15-504, MCA, is amended to read:

"13-15-504. Governor to issue commissions. Upon receipt of the ~~statement~~ statements required by ~~13-15-502~~ 13-15-501 and 13-37-127, the governor shall issue commissions to the ~~persons~~ individuals elected. If the governor has been elected to succeed himself, the secretary of state shall issue the commission."

Section 170. Section 13-16-101, MCA, is amended to read:

"13-16-101. ~~Board---of---county--commissioners~~ County governing body as county recount board. (1) The county recount board shall ~~always~~ consist of three ~~acting~~ members.

(2) ~~The county recount board is the board--of--county commissioners.~~ Three members of the governing body shall be appointed by the chairman if there are more than three members of the governing body.

(3) If ~~one-or-more-of-the-commissioners~~ three members of the governing body cannot attend when the board meets, his any vacant place shall be filled by a one or more county officer officers ~~in-the-following-order-of-appointment:-the treasurer,-the-assessor,-the-sheriff,--the--clerk--of--court~~ chosen by the remaining members of the governing body.

(4) If a member of the recount board ~~was~~ is a

candidate for an office or nomination for which votes are to be recounted, he shall be disqualified.

(5) The ~~registrar~~ election administrator is ~~clerk~~ secretary of the recount board, and the board may hire any additional clerks as needed.

(6) The board may appoint county employees or hire clerks to assist as needed."

Section 171. Section 13-16-201, MCA, is amended to read:

"13-16-201. Conditions under which recount to be made. A recount shall be made under any of the following conditions:

(1) If a candidate for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, or a precinct office is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, he may, within 5 days after the official canvass, file with the ~~registrar~~ election administrator a verified petition stating he believes a recount will change the result and a recount of the votes for the office or nomination should be had.

(2) If a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a

margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position, he may, within 5 days after the official canvass, file a petition with the secretary of state as set forth in subsection (1). The secretary of state shall immediately notify each ~~registrar~~ election administrator whose county includes any precincts which voted for the same office by certified or registered mail, and a recount shall be conducted in those precincts.

(3) If a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

~~(3)~~(4) If a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the secretary of state. This petition ~~shall~~ must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(5) If a question submitted to the vote of the people

of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least 2 counties, and must be filed within 5 days after the official canvass.

~~(4)~~(6) The secretary of state shall immediately notify each ~~registrar~~ election administrator by certified ~~or registered~~ mail of the filing of the petition, and a recount shall be conducted in all precincts in each county."

Section 172. Section 13-16-203, MCA, is amended to read:

"13-16-203. Recount for tie votes. ~~(1)~~ When a tie has been certified to the ~~registrar~~ election administrator or secretary of state, as provided in 13-15-405~~(2)~~(5), he shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie shall be resolved as provided by law.

~~(2) If a recount shows that two or more persons received an equal and sufficient number of votes for the office of state senator or state representative, the county recount board shall certify this to the governor.~~"

Section 173. Section 13-16-204, MCA, is amended to read:

"13-16-204. Meeting of recount board when recount requested. (1) Immediately upon receiving an application for a recount as provided in 13-16-201(1) or a notice from the secretary of state that an application has been filed with him, the ~~registrar~~ election administrator shall notify the members of the county recount board.

(2) The board shall convene at the usual meeting place of the ~~commissioners~~ governing body without undue delay but not later than 5 days after receiving notice from the ~~registrar~~ election administrator."

Section 174. Section 13-16-301, MCA, is amended to read:

"13-16-301. Application and court order for recount. (1) (a) Within 5 days after the canvass of election returns, an unsuccessful candidate for any public office at a ~~general or special or city~~ an election may apply to the district court of the county where the election was held for an order directing the ~~canvassing body~~ county recount board to make a recount of the votes cast in any or all of the precincts. If the election was held in more than one county, the application shall be made to the district court of the county where the candidate resides.

(b) Within 5 days after the canvass of election returns, an elector who was eligible to vote on the issue and who believes that there are grounds for a recount of the

votes cast for and against a ballot issue may apply to the district court of the county where he resides for an order directing the appropriate county recount board to make a recount of the votes cast in any or all of the precincts.

(2) The application shall specify the grounds for a recount and be verified by the applicant that the matters contained in it are true to the best of the applicant's knowledge, information, and belief.

(3) Within 5 days after filing of the application, the judge shall hear the application and determine its sufficiency.

(4) If the judge finds there is probable cause to believe that the votes cast for the applicant or the ballot issue were not correctly counted, he shall order the ~~board~~ ~~of~~ appropriate county ~~canvassers~~ recount board to assemble within 5 days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order."

Section 175. Section 13-16-303, MCA, is amended to read:

"13-16-303. Presumption of incorrectness from failure to comply with provisions for counting votes. If it appears from a verified application that the election judges ~~or~~ ~~clerks~~ failed to comply with the ~~provision~~ provisions of 13-15-202, that is sufficient cause for believing that the

election judges ~~and clerks~~ did not correctly ascertain the number of votes cast for the applicant or ballot issue."

Section 176. Section 13-16-304, MCA, is amended to read:

"13-16-304. Ordering in another judge — jurisdiction. (1) If the judge of the district court ~~of the county~~ in which the ~~election~~ application is ~~held~~ filed is for any reason disqualified from acting, the judge or a supreme court justice shall order another district judge to hear and determine the application.

(2) The district court shall not lose jurisdiction of the case by failure to hear and determine the application within the prescribed time but shall retain jurisdiction until the cause is finally determined and the final count is made by the ~~board of~~ county ~~canvassers~~ recount board."

Section 177. Section 13-16-305, MCA, is amended to read:

"13-16-305. Limitation of recount to certain counties or precincts. (1) If the application asks for a recount in more than one county or precinct but there are not sufficient grounds for a recount in all counties or precincts, the court shall order a recount in only in the counties or precincts for which sufficient grounds are stated and shown.

(2) The recount board ~~of canvassers~~ shall recount

votes only in those counties or precincts and for those offices or ballot issues specified in the court order."

Section 178. Section 13-16-307, MCA, is amended to read:

"13-16-307. Expenses of court-ordered recount. (1) The court shall in its order ~~shall~~ determine the probable expense of making the recount, and the applicant or applicants asking for the recount shall deposit with the board the amount determined, in cash.

(2) If the recount shows that ~~the~~ an applicant or ~~applicants have~~ has been elected to ~~the~~ office, the deposit of ~~each~~ the applicant shall be returned to him.

(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess; but if the expense is less than the cost, the difference shall be refunded to the applicant.

~~(4) Members of the canvassing board and their clerks shall be compensated for their time spent in canvassing.~~ If the recount reverses the results of a ballot issue election, the deposit of the applicant shall be returned to him.

(5) If the recount does not reverse the results of a ballot issue election and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess; but if the expense is less than the cost, the

difference shall be refunded to the applicant."

Section 179. Section 13-16-401, MCA, is amended to read:

"13-16-401. Persons Individuals entitled to appear at recount -- opening and recount of ballots. (1) Representatives of the news media may be present at the recount. The recount shall be public, but the audience may be limited to prevent interference with the procedures.

(2) Each candidate involved in a recount may appear, personally or by a representative, and shall have full opportunity to witness the opening of all ballot boxes and the count of all ballots.

~~(2)~~(3) If the recount is upon a referred or submitted question, one qualified elector favoring each side of the question may be present and represent his side.

~~(3)~~(4) The recount shall proceed as provided in 13-16-402 and as expeditiously as possible until completed."

Section 180. Section 13-16-402, MCA, is amended to read:

"13-16-402. ~~Manner of~~ Procedure for recounting paper ballots. The county recount board ~~of canvassers~~ in recounting the ballots shall count, at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:

(1) The ~~registrar~~ election administrator shall produce, unopened, ~~unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the~~ each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all ballots voted in the precinct or precincts.

(2) A member of the recount board ~~of county canvassers~~ shall open ~~the~~ each sealed package or envelope ~~in the presence of the other members, the registrar, and the applicant or applicants seeking the recount~~ and remove the ballots.

~~(3) A member of the board shall then remove the ballots from the package or envelope in the presence of the applicant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass.~~

~~(4)~~(3) One of the members of the board ~~in the presence and view of the candidates and other board members~~ shall read each ballot aloud. As the ballots are read, two clerks shall write the votes cast for each person individual in each precinct, at full length, on previously prepared tally sheets. The tally sheets shall show the names of the respective candidates, the office or offices for

which a recount is made, and the number of each election precinct.

~~(5) At the completion of the recount, the tally sheets shall be compared, their correctness ascertained, and the total number of votes cast for each candidate determined.~~

~~(6) If the recount shows the votes for any applicant are more or less than the number shown upon the official returns, the clerk of the board of canvassers shall correct the original returns to state the number of votes ascertained by the recount.~~

~~(7) The board of canvassers shall direct the clerk to enter the results of the election as determined by the recount on the board record.~~"

NEW SECTION. Section 181. Recounts of votes cast by machine. The recount board shall remove the seals from the voting machines in all precincts where a recount is required and proceed to record the votes cast for all candidates or on all ballot issues for which the recount is ordered in the same manner as the count is made after the closing of the polls. Any paper ballots voted in the precincts shall be recounted as prescribed in 13-16-402.

NEW SECTION. Section 182. Recounts of votes cast by voting devices. (1) The recount board shall test the automatic tabulating equipment used for votes cast by voting devices in the same manner provided in 13-16-201 for

preelection testing. However, the board shall prepare a new group of preaudited ballots for this test. If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered shall be recounted by the tabulating equipment.

(2) If any errors are found in the test or if any questions remain as to the accuracy of the count, the board may have the program and equipment checked by a qualified individual who did not participate in the original preparation of the program and equipment.

(3) The board may also order manual counting of the votes cast if they believe it is necessary to resolve all questions relating to the election.

(4) The board may remove the seals from any voting device and check the ballot on the device with the official certification of the ballot arrangement for each precinct.

(5) Any paper ballots voted in a precinct shall be recounted as prescribed in 13-16-402.

(6) Write-in votes shall be recounted in the same manner as the count is made after the closing of the ballot.

NEW SECTION. Section 183. Recount totals. After a recount is completed, tally sheets shall be compared and the correctness of all reports of votes cast ascertained. The totals for each candidate or on each issue shall be compiled and checked for accuracy.

NEW SECTION. Section 184. Report of recount. (1) If the recount shows the votes for any candidate or on any ballot issue are more or less than the number shown upon the official returns, the secretary of the recount board shall prepare a corrected report which states the number of votes ascertained by the recount.

(2) The recount board shall direct the secretary to enter the result of the election as determined by the recount in the board records.

Section 185. Section 13-16-403, MCA, is amended to read:

"13-16-403. Sealing ~~recounted~~ ballots, machines, or devices. (1) When the recount in a precinct has been finished, ~~the ballots~~ each ballot shall again be sealed in the same package or envelope in the presence of the ~~registrar~~ election administrator and the ~~members of the~~ recount board ~~of canvassers~~ and shall be delivered to the ~~registrar~~ election administrator for custody.

(2) All voting machines or devices from which seals have been removed shall be resealed in the presence of the election administrator and the recount board and shall be delivered to the election administrator for custody.

(3) All other materials used in the recount that are required to be sealed shall be resealed in the same manner and delivered to the election administrator for custody."

Section 186. Section 13-16-404, MCA, is amended to read:

"13-16-404. Procedure after recount. (1) Immediately after the recount, the county recount board shall certify the result.

(2) At least two members of the board shall sign the certificate, and it shall be attested to under seal by the ~~registrar~~ election administrator.

(3) The certificate shall set forth in substance the proceedings of the board and the appearance of any candidates or representatives~~,~~ ~~and it~~ The certificate shall adequately designate each precinct recounted~~;~~ the vote of each precinct according to the official canvass previously made~~;~~ the nomination, position, or question involved~~;~~ and the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate shall be made in duplicate. One copy shall be transmitted immediately to the secretary of state by certified ~~or registered~~ mail.

(5) (a) If the recount relates to a county, municipal, or district office voted for in only one county, other than

that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately reconvass the returns as corrected by the certificate showing the result of the recount and make a corrected abstract of the votes.

(b) If the corrected abstract shows no change in the result, no further action need be taken.

(c) If there is a change in the result, a new certificate of election ~~or~~ nomination shall be issued to each candidate found to be elected or nominated, and the first certificate is void. The ~~person~~ individual receiving the second certificate shall be elected or nominated to the office."

Section 187. Section 13-16-501, MCA, is amended to read:

"13-16-501. Tie vote after recount. (1) If the recount shows a tie vote for any office and it cannot be determined who has been nominated ~~or elected, the office or position shall be filled as provided by this part~~ by the primary election, the election officer with whom the candidates' nominating declarations or petitions were filed shall determine by lot which candidate shall be nominated. Written notice of the time and place of the drawing shall be given to each candidate involved.

(2) If the recount after a general election shows a tie vote and it cannot be determined who has been elected, the office or position shall be filled as provided by 13-16-502 through 13-16-506."

Section 188. Section 13-16-502, MCA, is amended to read:

"13-16-502. Tie vote in election for United States ~~representative~~ congress. If there is a tie vote for United States representative or senator, the secretary of state shall send a certified statement to the governor showing the votes cast, and the governor shall order a special election."

Section 189. Section 13-16-503, MCA, is amended to read:

"13-16-503. Tie in election for supreme court justice, district court judge, or state legislator. If there is a tie vote for justice of the supreme court, judge of a district court, or member of the legislature, the secretary of state shall send a certified statement to the governor showing the ~~vote~~ votes cast for each ~~person~~ individual, and the governor shall appoint ~~an eligible person~~ one of those candidates to ~~hold~~ the office."

Section 190. Section 13-16-504, MCA, is amended to read:

"13-16-504. Tie vote in election for state executive

officers. ~~(1)~~ If there is a tie vote for governor and lieutenant governor, secretary of state, attorney general, state auditor, clerk of the supreme court, superintendent of public instruction, or any other state executive officer, the secretary of state shall transmit a certified copy of the statement to the legislature showing the votes cast for the two or more candidates having an equal and the highest number of votes. ~~the~~ The legislature, at its next regular session, shall elect ~~a person~~ one of these candidates to fill the office by joint ballot of the two houses.

~~(2) If there is a tie vote for state officers, the secretary of state shall transmit a certified copy of the statement to the legislature showing the votes cast for the two or more persons having an equal and the highest number of votes.~~"

Section 191. Section 13-16-505, MCA, is amended to read:

"13-16-505. Tie vote in election for county commissioner. If there is a tie vote for commissioner, the senior district judge shall appoint ~~an eligible person~~ one of the candidates who tied to fill the office as in other cases of vacancy."

Section 192. Section 13-16-506, MCA, is amended to read:

"13-16-506. Tie vote in election for other county

officers. If there is a tie vote for clerk of the district court, county attorney, or any county officer, except county commissioner, the commissioners shall appoint ~~an eligible person~~ one of the candidates who tied to fill the office as in ~~case of~~ other ~~vacancies in the office~~ cases of vacancy."

NEW SECTION. Section 193. Tie vote in election for officers of nonspecified political subdivision. If there is a tie vote for an officer of any political subdivision not specifically provided for in this part, the governing body of that jurisdiction shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

Section 194. Section 13-17-101, MCA, is amended to read:

"13-17-101. Secretary of state to approve voting machines and devices. (1) Before any voting machine or device can be used for any election in this state, the secretary of state shall:

(a) examine the machine or device to determine if it complies with the requirements of this chapter;

(b) within 30 days after examining a machine or device, file a report of the examination in his office on ~~each machine examined~~;

(c) include in the report the reasons for approval or disapproval of the use of the machine or device and his opinion of the economic and procedural impact of the use of

the machine or device by the various classes of counties of this state; and

~~(c)~~(d) within 5 days after filing the report, transmit to the ~~commissioners, city council, or other board having control of elections in~~ election administrator of each county ~~or city a list of the machines approved~~ a copy of the report.

(2) ~~A machine shall~~ Voting machines and devices may not be used unless approved by the secretary of state 60 days or more prior to the election at which they will be used."

Section 195. Section 13-17-102, MCA, is amended to read:

"13-17-102. Use of qualified ~~mechanics~~ technicians and advisors. (1) The secretary of state may employ and compensate qualified ~~mechanics~~ technicians and advisors who are residents of this state to assist him in duties required of him by 13-17-101. Advisors are public officers or employees who serve without additional compensation other than reasonable attendance and equalization if the examination takes place during their regular working hours.

(2) The person or company submitting a machine or device for examination ~~before the filing of the report~~ shall pay the compensation and expenses of ~~mechanics~~ technicians and advisors connected with the examination to the secretary

of state for deposit in the state general fund. The secretary of state and the person or company shall reach agreement on the number of technicians and advisors to be compensated before the examination is held."

Section 196. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications ~~of machines~~ for equipment. ~~(1)~~ A ~~machine or machine system~~ voting machine or device may not be approved unless:

~~(a)~~(1) an elector can vote in secrecy~~, as he is entitled to vote by law~~;

~~(b)~~(2) an elector is prevented from voting for any candidate or upon any ~~question~~ ballot issue more than once and is also prevented from voting ~~for any person or~~ on any ~~proposition, if~~ office or ballot issue for which he is not entitled to vote;

(3) an elector can secretly select the party for which he wishes to vote in a primary election and the machine or device will count only votes for the candidates of that party by the elector in the primary election;

~~(c)~~(4) an elector can vote a split ticket in a general election if he desires;

~~(d)~~(5) every valid vote cast is registered and recorded~~;~~

(6) the machine or device is constructed so that it

cannot be tampered with for a fraudulent purpose and is also constructed so that during the progress of the voting no individual can see or know the number of votes registered for any candidate or on any ballot issue;

(7) it allows write-in voting; and

(8) a guarantee to provide training and assistance to election officials will be included in each contract for purchase of the machine or device.

~~(2) The machine or machine system must be constructed so that it cannot be tampered with for a fraudulent purpose and must also be constructed so that during the progress of the voting no person can see or know the number of votes registered for any candidate or on any proposition.~~"

Section 197. Section 13-17-104, MCA, is amended to read:

"13-17-104. Providing voting machines or devices -- payment. (1) ~~Commissioners and councils~~ The county governing body may provide approved voting machines or devices as practicable.

~~(2) Not later than September 10, prior to a general election, the commissioners or council of a city may unite two or more precincts to use a voting machine. Notice of the consolidation shall be given as provided by law for the change of election districts.~~

~~(3)~~(2) Funds for voting machines or devices may be

provided by ~~interest-bearing---bonds,---certificates---of indebtedness,--or--other-obligations.-The-term-of-the-bonds, certificates,-or-other-obligations-may not-exceed-10--years, and--they--shall--not-be-issued-or-sold-at-less-than-par~~ the same methods available for other capital equipment purchases by the county.

(3) The governing body of a county may put the question of purchasing voting machines or devices or the question of which type of voting machine or device to purchase to the registered electors of the county by the same method that any other question is referred to the electors."

Section 198. Section 13-17-105, MCA, is amended to read:

"13-17-105. Experimental use of machines or devices. ~~Officials--authorized-to-adopt-voting-machines~~ The governing body of a county may provide for the experimental use at an election of a voting machine, or device that has been approved by the secretary of state, in one or more precincts without a formal adoption or purchase of the machine or device. ~~The~~ Its use at an the election is valid for all purposes as if the ~~machine~~ equipment had been formally adopted or purchased."

Section 199. Section 13-17-106, MCA, is amended to read:

"13-17-106. General election laws to apply. All laws applicable to elections where voting is not done by machine or device and all penalties prescribed for violations of those laws apply to elections and precincts where voting machines or devices are used if they are not in conflict with the provisions of this chapter."

NEW SECTION. Section 200. Secretary of state to prescribe rules. (1) The secretary of state may prescribe rules for the submission of voting machines and devices for examination and additional requirements for approval of machines and devices.

(2) The secretary of state shall prescribe rules for the complete procedures necessary to use each type of voting machine or device now approved for use in this state and for each type of machine or device approved for use under the provisions of [Title 13, chapter 17].

Section 201. Section 13-17-201, MCA, is amended to read:

"13-17-201. ~~Registrar~~ Election administrator to instruct election judges. (1) Before each election, the ~~registrar~~ election administrator shall instruct all election judges in the use of the ~~machine~~ machines or devices and their duties. He shall give to each election judge who has received instruction and is fully qualified to conduct ~~the~~ an election with the machine a certificate to that effect.

~~(2) The registrar shall call meetings of the election judges as necessary for instruction. Election judges shall attend meetings as necessary to receive the proper instructions.~~

~~(3)~~(2) ~~An~~ A chief election judge may not serve ~~if~~ in a precinct where voting machines or devices are used unless he has received instruction, is fully qualified to perform duties in connection with the machine or device, and has received a certificate to that effect from the ~~registrar~~ election administrator. ~~However, this section does not prevent an emergency appointment of an election judge.~~"

Section 202. Section 13-17-203, MCA, is amended to read:

"13-17-203. Publication of information concerning machines or devices. (1) Not more than 10 or less than 3 days before an election at which voting machines are or devices will be used, the ~~registrar or city clerk~~ election administrator shall publish on radio or television as provided in 2-3-105 through 2-3-107 or in a newspaper of general circulation in the county:

~~(1)~~(a) a diagram showing the voting machine ~~with offered~~ or device and ballot arrangement (in newspaper only) labels;

~~(2)~~(b) a statement of the locations where voting machines or devices are on public exhibition;

~~(3)~~(c) illustrated instructions on how to vote.

Section 203. Section 13-17-204, MCA, is amended to read:

"13-17-204. Voting ~~machine~~ machines or devices to be exhibited. A voting machine or device shall be on exhibition in the office of the ~~registrar or city clerk~~ election administrator of counties where ~~voting machines~~ such equipment ~~are~~ is used and may be exhibited at other locations. The ~~registrar or city clerk~~ election administrator shall demonstrate the voting ~~machine~~ machine or device to any inquiring ~~voter~~ elector."

Section 204. Section 13-17-206, MCA, is amended to read:

"13-17-206. Arrangement of machine ballot. ~~(1) In primary elections a separate row or column shall be assigned to each political party and at least one row shall separate the rows assigned to the two major political parties. This row shall be used for the nonpartisan judicial ballot. The placement of the nonpartisan judicial ballot shall be such that the ballot of each political party appears in an unbroken row or column.~~

~~(2) The candidates for president and vice president shall appear on the machine ballot. Presidential electors shall not appear on the machine.~~

~~(3) In general elections the ballot shall be arranged~~

~~and the names of the candidates rotated to conform as nearly as possible to the requirements for paper ballots.~~

~~(4) Candidates of the two major parties shall be rotated between the first two horizontal rows or vertical columns, and candidates of minor parties and independent candidates shall be rotated between succeeding rows or columns.~~

~~(5) The party designation of each candidate shall appear below his name in type as large as machine design will allow.~~

~~(6) The judicial ballot shall appear in the first two horizontal or vertical rows or columns as prescribed by 13-12-207.~~ The order and arrangement of ballots to be used with voting machines or devices shall be the same as paper ballots insofar as possible and shall be prescribed by the secretary of state before each election."

Section 205. Section 13-17-301, MCA, is amended to read:

"13-17-301. Placement of ~~machines~~ equipment [illegible] time for use. (1) The exterior of the voting ~~machines~~ [illegible] devices or the booths in which they are placed and every part of the polling place shall be in plain view of the election judges.

~~(2) The machines shall be placed so that other persons on the premises cannot see how the voter casts his vote. The election judges shall not permit any person to remain in any position that would permit him or them to see how the voter votes or has voted.~~

~~(3)~~(2) ~~A voter shall~~ An elector may not remain within the voting machine or device booth or compartment longer than is reasonably necessary to vote. If he refuses to leave, the election judges shall remove him.

Section 206. Section 13-17-305, MCA, is amended to read:

"13-17-305. Request to use paper ballots. Where voting machines or devices are used, an elector may request to vote by paper ballot instead of using the ~~voting machines~~ machine or device. The election judges shall provide the elector with a paper ballot when requested. Paper ballots shall be cast and counted by the election judges in the manner provided by law."

Section [illegible]. Section 13-17-306, MCA, is amended to read:

"13-17-306. [illegible] use of separate paper ballots for voting on certain [illegible] ~~do not allow proper lockout~~ [illegible] Whenever a voting machine [illegible] machine or device does not allow proper lockout or does not allow adequate space for the candidates for all offices or for all ballot issues, separate paper ballots ~~shall~~ may be issued used for money issues ~~which do not involve the question of~~

~~(1) incurring of a state indebtedness;~~

~~(2) issuance of state bonds or debentures, other than for refunding; or~~

~~(3) the levy of a tax for state purposes~~ some or all offices or ballot issues if written authorization is given to the election administrator by the secretary of state."

Section 208. Section 13-25-101, MCA, is amended to read:

"13-25-101. Nomination of electors -- ballot. (1) Each political party qualified under 13-10-601 shall nominate presidential electors for this state and file certificates of nomination for these candidates with the secretary of state no later than 45 days before the general election. ~~certificates of nomination for these candidates at the time~~ and in the manner and number provided by law.

(2) The secretary of state shall certify to the ~~registrars~~ election administrator the names of the candidates for president and vice president of the several political parties, which shall be printed on the ballot.

(3) The names of candidates for electors of president and vice president ~~shall~~ may not be printed upon the ballot."

Section 209. Section 13-25-203, MCA, is amended to read:

"13-25-203. Vacancy in office of United States

representative. (1) ~~Whenever~~ If a vacancy occurs in the office of United States representative, the governor shall immediately order an ~~issue a writ of~~ election to be held to fill the vacancy, except as provided in subsection (3) of this section.

(2) ~~The election to fill the vacancy shall be held within 3 months from the time the vacancy occurs.~~ The election to fill the unexpired term shall be held within 90 days from the time the vacancy occurs, except that if the vacancy occurs 150 days or less before a primary election or between the primary and general elections in odd-numbered years, the election shall be held with the primary or general election.

(3) If the vacancy occurs between the primary and general election in even numbered years, the candidate elected to the office for the succeeding full term shall immediately take office to fill the unexpired term.

NEW SECTION. Section 210. Nominations for special election. (1) When a special election is ordered to fill a vacancy in the office of United States senator or United States representative, each political party shall choose a candidate according to the rules of the party. Nominations by parties shall be made no later than 50 days before the date set for the election.

(2) Nominating petitions may be filed by independent

candidates for the office up to 5:00 p.m. of the 50th day before the election.

Section 211. Section 13-26-109, MCA, is amended to read:

"13-26-109. Certificate of result -- transmission to secretary of state of United States. When the convention has agreed by majority vote of delegates attending the convention, a certificate of the result shall be executed by the president and secretary and transmitted to the secretary of state of the United States. A duplicate of the certificate shall be filed with the secretary of state of Montana."

Section 212. Section 13-27-307, MCA, is amended to read:

"13-27-307. Consideration and ~~counting~~ tabulation of signatures by secretary of state. (1) The secretary of state shall consider and ~~count~~ tabulate only such signatures on petitions as are certified by the proper county official, and each such certificate is prima facie evidence of the facts stated therein. However, the secretary of state may consider and ~~count~~ tabulate any signature not certified by the county official that is certified by a notary public of the county in which the signer resides to be the genuine signature of an elector legally qualified to sign the petition.

(2) The official certificate of the notary public for any signature not certified as valid by the county official shall be in substantially the following form:

State of Montana) ss
County of .....)

I, ... (name), a duly qualified and acting notary public in and for the above-named county and state, do hereby certify, that I am personally acquainted with each of the following-named electors whose signatures are affixed to the annexed (petition) (copy of a petition), and I know of my own knowledge that they are registered electors of the state of Montana and of the county and legislative district written after their names in the petition and that their post-office ~~address--is~~ addresses are correctly stated therein.

....(Names of such electors)

In ~~testimony whereof~~ testimony whereof, I have hereunto set my hand and official seal this ... day of ....., 19...

..... (Signature)
Seal ..... (Notarial information)"

Section 213. Section 13-27-311, MCA, is amended to read:

"13-27-311. Newspaper---~~publication~~ Publication of proposed constitutional amendments. (1) If a proposed

constitutional amendment or amendments are submitted to the people, the secretary of state shall have the proposed amendment or amendments published in full twice each month for 2 months previous to the election at which they are to be voted upon by the people, in not less than one newspaper of general circulation in each county.

(2) The secretary of state may arrange for newspaper, radio, or television publication of proposed constitutional amendments in each county. A summary of the amendment as provided by the attorney general, as described in 13-27-312, would suffice for the publication required by this section and should be made at least twice each month for 2 months previous to the election."

Section 214. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. The arguments advocating approval or rejection of the ballot issue and rebuttal arguments shall be submitted to the secretary of state by committees appointed as provided in this ~~subsection~~ section:

(1) The committee advocating approval of an act referred to the people or a constitutional amendment proposed by the legislature or an act referred to the people by referendum petition shall be composed of one senator known to favor the measure, appointed by the president of

the senate; one representative known to favor the measure, appointed by the speaker of the house of representatives; and one ~~member~~ individual who need not be a member of the legislature, appointed by the first two members.

(2) The committee advocating rejection of a ballot issue referred to the people or proposed by the legislature shall be composed of one senator appointed by the president of the senate; one representative appointed by the speaker of the house of representatives; and one ~~member~~ individual who need not be a member of the legislature, appointed by the first two members. Whenever possible, the members shall be known to have opposed the issue.

(3) A three-member committee advocating approval of a ballot issue proposed by any type of initiative petition or advocating rejection of any ballot issue that is a legislative act referred to the people by referendum petition shall be appointed by the ~~chairman of the organization that was first on record with the commissioner of campaign finances and practices as a proponent of the petition~~ person submitting the petition to the secretary of state under the provisions of 13-37-202.

(4) A committee advocating rejection of a ballot issue proposed by any type of initiative petition shall be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of

representatives shall each appoint one member, and the fifth member shall be appointed by the first four members. All members shall be known to favor rejection of the issue."

Section 215. Section 13-35-106, MCA, is amended to read:

"13-35-106. Ineligibility to hold office because of conviction. In addition to all other penalties prescribed by law:

(1) a candidate who is convicted of violating any provision of this title, except 13-35-207~~(10)~~(9), is ineligible to be a candidate for any public office in the state of Montana until his final discharge from state supervision;

(2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207~~(10)~~(9), is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana until his final discharge from state supervision;

(3) if an elected official ~~who is~~ or a candidate ~~for nomination, was guilty of any act which was wrongful or unlawful or which would be sufficient to cause his removal from office if committed during the general election campaign,~~ is adjudicated to have violated any provision of this title, except 13-35-207(9), he shall ~~upon conviction,~~

be removed from nomination or office, ~~in the same manner as though the act had been committed during the general election~~ as the case may be, even though he ~~may have been~~ was regularly nominated or elected ~~and was not guilty of a wrongful or unlawful act during the election at which he was elected to office.~~"

Section 216. Section 13-35-107, MCA, is amended to read:

"13-35-107. Voiding election. (1) If a court ~~of competent jurisdiction~~ finds that the violation of any provision of this title by any ~~candidate or political committee~~ person probably affected the outcome of any election, the result of that election may be held void and a special election held within 60 days of that finding. If the violation occurred during a primary election, the court may direct the ~~appropriate political party to select~~ selection of a new candidate according to the provisions of state law ~~and the custom of the party~~ relating to the filling of vacancies on the general election ballot. Except as provided in subsection (2), an action to void an election shall be commenced within 1 year of the date of the election in question.

(2) An action to void a bond election shall be commenced within 60 days of the date of the election in question."

Section 217. Section 13-35-202, MCA, is amended to read:

"13-35-202. Conduct of ~~officers and clerks of~~ election officials and election judges. No An election officer or ~~clerk~~ judge of an election may not:

(1) deposit in a ballot box a ballot on which the official stamp, as provided by law, does not appear;

(2) prior to putting the ballot of an elector in the ballot box, attempt to find out any name on the ballot or open or examine the folded ballot of an elector;

(3) look at any mark made by the ~~voter~~ elector upon the ballot;

(4) make or place any mark or device on any folded ballot with the intent to ascertain ~~the name of any person for whom~~ how the elector has voted;

(5) allow any ~~person~~ individual other than the ~~voter~~ elector to be present at the marking of the ballot except as provided in 13-13-108 and 13-17-303; or

(6) make a false statement in a certificate regarding affirmation."

Section 218. Section 13-35-207, MCA, is amended to read:

"13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as

appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

(1) falsely represents his name or other information required upon his registry card and causes registration with the card;

(2) signs a registry card knowingly witnessing any false or misleading statement;

~~(3) knowingly submits a false report or deliberately fails to include information in a report required by this title;~~

~~(4)~~(3) knowingly causes a false statement, certificate, or return of any kind to be signed;

~~(5)~~(4) falsely makes a declaration or certificate of nomination;

~~(6)~~(5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;

~~(7)~~(6) forges or falsely makes the official endorsement of a ballot;

~~(8)~~(7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;

~~(9)~~(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

~~(10)~~(9) signs a name other than his own to a petition, signs more than once for the same measure, or signs a petition while not being a qualified elector of the state; or

~~(11)~~(10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 219. Section 13-35-211, MCA, is amended to read:

"13-35-211. Electioneering. (1) No person may do any electioneering on election day within any polling place or any building in which an election is being held or within 200 feet thereof, which aids or promotes the success or defeat of any candidate or ballot issue to be voted upon at the election.

~~(2) No officer or clerk of election may do any electioneering on election day.~~

~~(3)~~(2) No person may buy, sell, give, ~~or provide a political badge, button, or other insignia to be worn at or about the polls on the day of an election, and no such political badge, button, or other insignia may be worn~~ wear, or display at or about the polls on an election day any badge, button, or other insignia which is designed or tends to aid or promote the success or defeat of any candidate or ballot issue to be voted upon at the election."

Section 220. Section 13-35-215, MCA, is amended to

read:

"13-35-215. Illegal consideration for voting. No person, directly or indirectly, by himself or by any other person in his behalf, may:

(1) before or during any election for voting or agreeing to vote or for refraining or agreeing to refrain from voting at the election or for inducing another to do so:

(a) receive, agree, or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for himself or any other person; or

(b) approach any candidate or agent or person representing or acting on behalf of any candidate ~~at the election~~ and ask for or offer to agree or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for himself or any other person;

(2) after an election, for having voted or refrained from voting or having induced any other person to vote or refrain from voting at the election:

(a) receive any money, gift, loan, valuable consideration, office, place, or employment; or

(b) approach any candidate or any agent or person representing or acting on behalf of any candidate and ask for or offer to receive any money, gift, loan, liquor, valuable consideration, office, place, or employment for

himself or any other person."

Section 221. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous. ~~It is unlawful to write, print, publish, mimeography, type, or otherwise produce or circulate through the mails or otherwise any letter, circular, bill, dodger, pamphlet, placard, poster, or other document relating to any election or to any candidate, political party, political committee, or ballot issue at any election, unless the same bears on its face the name and address of the person paying for the printing or publishing and the name of the printer and publisher. A person writing, printing, publishing, circulating, posting, mimeographing, typing, or causing to be written, printed, circulated, posted, mimeographed, typed, or published any such letter, bill, placard, dodger, pamphlet, circular, poster, or other document which fails to bear on its face the name and address of the person paying for the printing or publishing and the name of the printer or publisher is guilty of an illegal practice and shall, on conviction thereof, be punished by a fine of not less than $10 or more than $1,000.~~ (1) Whenever any person makes an expenditure for the purpose of financing communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station,

newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, or other form of general political advertising, such communication shall clearly and conspicuously state the name and address of the printer, if printed commercially, and the name and address of the person who made or financed the expenditure for the communication; including, in the case of a political committee, the name and address of the treasurer.

(2) If any document or other article of advertising is too small for the requirements of subsection (1) to be conveniently included or if necessary information is inadvertently omitted, the person financing the communication shall file a copy of the article with the commissioner, together with the required information."

Section 222. Section 13-35-226, MCA, is amended to read:

"13-35-226. Unlawful acts of employers and employees. (1) It is unlawful for any employer, in paying his employees the salary or wages due them, to enclose include with their pay ~~in pay envelopes upon which is written or printed~~ the name of any candidate or any political mottoes, devices, or arguments containing threats or promises (express or implied) calculated or intended to influence the political opinions or actions of ~~such~~ the employees. It is unlawful for an employer to exhibit in a place where his workers or

employees may be working any handbill or placard containing any threat, promise, notice, or information that in case any particular ticket or political party, organization, or candidate is elected, work in his place or establishment will cease, in whole or in part, or will be continued or increased; his place or establishment will be closed; the salaries or wages of his workers or employees will be reduced or increased; or other threats or promises (express or implied) intended or calculated to influence the political opinions or actions of his workers or employees. This section shall apply to corporations, individuals, and public officers and employees.

(2) No person may attempt to coerce, command, or require a public employee to give money, service, or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(3) No public employee may solicit any money, influence, service, or other thing of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job or at his place of employment. However, nothing in this section is intended to restrict the right of a public employee to express his personal political views.

(4) Any person who violates the provisions of this

section shall be fined not to exceed $1,000, be imprisoned in the county jail for a term not to exceed 6 months, or both, for each separate offense."

Section 223. Section 13-35-231, MCA, is amended to read:

"13-35-231. Unlawful for political party to endorse judicial candidate. A political party ~~which endorses~~ may not endorse, contribute to, or make an expenditure to support or oppose a judicial candidate ~~for justice of the supreme court or district court judge a person who participates in an endorsement by a political party, or a person who acts on behalf of a political party in endorsing a judicial candidate is guilty of a misdemeanor.~~"

Section 224. Section 13-36-101, MCA, is amended to read:

"13-36-101. Grounds for contest of nomination or election to public office. An elector ~~of the state or of any political or municipal division thereof~~ may contest the right of any person to any nomination or election to public office for which the elector has the right to vote, for any of the following causes:

(1) on the ground of a deliberate, serious, and material violation of any provision of the law relating to nominations or elections;

(2) whenever the person whose right is contested was

not, at the time of the election, eligible to such office;

(3) on account of illegal votes or an erroneous or fraudulent count or canvass of votes."

Section 225. Section 13-36-102, MCA, is amended to read:

"13-36-102. Time for commencing contest. (1) Five days or less after a person candidate has been certified as nominated, any a person wishing to contest the nomination to any ~~state, county, district, precinct, or city~~ public office shall give notice in writing to the person candidate whose nomination he intends to contest, briefly stating the cause for the contest. The contestant shall make application to the district court ~~judge~~ in the county where the contest is to be had. The judge shall then set the time for the hearing. The contestant shall serve notice 3 days before the hearing is scheduled. The notice shall state the time and place of the hearing.

(2) Any action to contest the right of ~~any person~~ a candidate to be declared elected to an office or to annul and set aside such election or to remove from or deprive any person of an office of which he is the incumbent for any offense mentioned in this title must, unless a different time be is stated, be commenced within 1 year after the return day of the election at which such offense was committed."

Section 226. Section 13-36-103, MCA, is amended to read:

"13-36-103. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to annul and set aside the election of any person declared elected to an office or to remove or deprive any person of his office for an offense mentioned in this title or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in 13-36-209, must be made or filed in the district court of the county in which the certificate, declaration or acceptance of his nomination as a candidate for the office to which he is declared nominated or elected is filed or in which the incumbent resides."

Section 227. Section 13-36-202, MCA, is amended to read:

"13-36-202. Reception of illegal votes — allegations and evidence. When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that in one or more specified voting precincts illegal votes were given to the person candidate whose nomination or election is contested which, if taken from him, will reduce the number of his legal votes below the number of legal votes given to some other ~~person~~ candidate

for the same office. No testimony shall be received of any illegal votes unless the party contesting such election delivers to the opposite party, at least 3 days before such trial, a written list of the number of illegal votes (and by whom given) which he intends to prove on such trial. This provision shall not prevent the contestant from offering evidence of illegal votes not included in such statement if he did not know and by reasonable diligence was unable to learn of such additional illegal votes (and by whom they were given) before delivering such written list."

Section 228. Section 13-36-205, MCA, is amended to read:

"13-36-205. Recovery of costs. ~~If the petitioner prevails, he~~ In any contest, the prevailing party may recover his costs, disbursements, and reasonable attorney's fees ~~against the contestee~~. Costs, disbursements, and attorney's fees, in all such cases, shall be in the discretion of the court. In case judgment is rendered against the petitioner, it shall also be rendered against the sureties on the bond."

Section 229. Section 13-36-207, MCA, is amended to read:

"13-36-207. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person other than the

petitioner and contestee may be made a party to the proceedings on such petition, and no person other than the parties and their attorneys may be heard thereon, except by order of the court. If more than one petition is pending or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together and may apportion the costs, disbursements, and attorney's fees between them and shall finally determine all questions of law and fact, ~~sev-only~~ except that the judge may, in his discretion, impanel a jury to decide on questions of fact. In the case of nominations or elections other than for federal congressional offices, the court shall immediately certify its decision to the board governing body or official issuing certificates of ~~nomination or~~ election, and the ~~board~~ governing body or official shall thereupon issue certificate of ~~nomination or~~ election to the person or persons entitled thereto by the court's decision. If judgment of ouster against a defendant is rendered, the nomination or office shall be by the judgment declared vacant, except as provided in 13-36-217, and shall thereupon be filled by a new election or by appointment as may be provided by law regarding vacancies in such nomination or office."

Section 230. Section 13-37-111, MCA, is amended to read:

"13-37-111. Investigative powers and duties. (1) The commissioner of campaign finances and practices shall be responsible for investigating all of the alleged violations of the election laws contained in chapters 35, 36, or 37 of this title and shall in conjunction with the county attorneys be responsible for enforcing ~~all of the state's~~ these election laws.

(2) The commissioner may investigate all statements filed pursuant to the provisions of chapters 35, 36, or 37 of this title and shall also investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of chapters 35, 36, or 37 of this title. Upon the submission of a written complaint by any individual, the commissioner shall also investigate any other alleged violation of the provisions of chapters 35, 36, or 37 of this title or any rule adopted pursuant thereto.

(3) The commissioner may inspect any records, accounts, or books that must be kept pursuant to the provisions of chapters 35, 36, or 37 of this title which are held by any political committee or candidate, so long as such inspection is made during reasonable office hours.

(4) The commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books,

papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapters 35, 36, or 37 of this title."

Section 231. Section 13-37-112, MCA, is amended to read:

"13-37-112. Personnel and budget. (1) The commissioner shall select an appropriate staff to enforce the provisions of chapters 35, 36, or 37 of this title, and he may hire and fire all personnel under his supervision.

(2) The commissioner shall be responsible for preparing, administering, and allocating the budget for his office."

Section 232. Section 13-37-113, MCA, is amended to read:

"13-37-113. Hiring of attorneys -- prosecutions. The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of chapters 35, 36, or 37 of this title. Any properly licensed attorney so retained or hired shall exercise the powers of a special attorney general, and he may prosecute, subject to the control and supervision of the commissioner and the provisions of 13-37-124 and 13-37-125, any criminal or civil action

arising out of a violation of any provision of chapters 35, 36, or 37 of this title. All prosecutions shall be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The authority to prosecute as prescribed by this section includes the authority to:

(1) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of chapters 35, 36, or 37 of this title;

(2) attend and give advice to a grand jury when cases involving criminal violations of chapters 35, 36, or 37 of this title are presented;

(3) draw and file indictments, informations, and criminal complaints;

(4) prosecute all actions for the recovery of debts, fines, penalties, or forfeitures accruing to the state or county from persons convicted of violating chapters 35, 36, or 37 of this title; and

(5) do any other act necessary to successfully prosecute a violation of any provision of chapters 35, 36, or 37 of this title."

Section 233. Section 13-37-114, MCA, is amended to read:

"13-37-114. Rules. The commissioner shall promulgate and publish rules to carry out the provisions of chapters

35, 36, or 37 of this title and shall promulgate such rules in conformance with the Montana Administrative Procedure Act."

Section 234. Section 13-37-117, MCA, is amended to read:

"13-37-117. Commissioner to provide forms and manuals. (1) The commissioner shall prescribe forms for statements and other information required to be filed pursuant to chapters 35, 36, or 37 of this title and furnish forms and appropriate information to persons required to file statements and information.

(2) The commissioner shall prepare and publish a manual prescribing a uniform system for accounts for use by persons required to file statements pursuant to chapters 35, 36, or 37 of this title.

(3) The commissioner shall prescribe the manner in which the county clerk and recorders shall receive, file, collate, and maintain reports filed with them under chapters 35, 36, or 37 of this title."

Section 235. Section 13-37-118, MCA, is amended to read:

"13-37-118. Information voluntarily supplied. The commissioner shall accept and file any information voluntarily supplied that exceeds the requirements of chapters 35, 36, or 37 of this title."

Section 236. Section 13-37-119, MCA, is amended to read:

"13-37-119. Availability of information. (1) The commissioner shall make statements and other information filed with his office available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed actual cost.

(2) The commissioner shall preserve statements and other information filed with his office for a period of 10 years from date of receipt.

(3) The commissioner shall prepare and publish summaries of the statements received and such other reports as he considers appropriate.

(4) The commissioner shall provide for wide public dissemination of summaries and reports.

~~(5) Every individual shall have the right to inspect any report or current account that must be kept or filed pursuant to the provisions of this title but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.~~"

Section 237. Section 13-37-120, MCA, is amended to read:

"13-37-120. Reports. ~~(1)~~ The commissioner shall at the

close of each fiscal year report to the legislature and the governor concerning the action he has taken, including the names, salaries, and duties of all individuals in his employ and the money he has disbursed. The commissioner shall also make further reports on the matters within his jurisdiction as that the legislature may prescribe and shall also make recommendations for further legislation as that may appear desirable.

~~(2) After receiving the final campaign contribution and expenditure report filed as required by 13-37-225 through 13-37-229, the commissioner shall inform the secretary of state or the city or county clerk and recorder that each candidate who has been properly elected to any public office has filed his final contribution and expenditure report as specified in 13-37-225 through 13-37-229.~~"

Section 238. Section 13-37-121, MCA, is amended to read:

"13-37-121. Inspection of statements and reports — issuance of orders of noncompliance. (1) Each statement and report filed with the commissioner during an election or within 60 days thereafter shall be inspected within 10 days after ~~the date upon which the statement~~ it is filed. If a person has not satisfied the provisions of this ~~title~~ chapter, the commissioner shall immediately notify the

person of the noncompliance. Such an order of noncompliance shall be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by ~~law~~ this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this ~~title~~ chapter or that a person has failed to file a statement or report required by law.

(2) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(3) If an order of noncompliance is issued during any period other than that described in subsection (2), a candidate or political committee shall submit the necessary information within 10 days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate

county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125."

Section 239. Section 13-37-123, MCA, is amended to read:

"13-37-123. Examination of reports after election. Within 120 days after the date of each election, the commissioner shall examine and compare each statement or report filed with the commissioner pursuant to the provisions of this t ~~title~~ chapter to determine whether e the statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the commissioner pursuant to the requirements of this ~~title~~ chapter. The commissioner may investigate the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to this ~~title~~ chapter or the alleged failure to report any contribution or expenditure required to be reported pursuant to this ~~title~~ chapter."

Section 240. Section 13-37-124, MCA, is amended to read:

"13-37-124. Consultation and cooperation with county attorney. (1) Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under ~~the election laws~~ chapters 35,

36, or 37 of this ~~state~~ title, he shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after he receives notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may, at any time prior to the expiration of the 30-day time period specified in subsection (1), waive his right to prosecute and thereby authorize the commissioner to initiate the appropriate civil or criminal ~~action under the election law~~.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of chapters 35, 36, or 37 of this title.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution shall be paid by the state of Montana, and all fines and forfeitures imposed pursuant to a prosecution by the commissioner shall be deposited in the state general fund."

Section 241. Section 13-37-125, MCA, is amended to

read:

"13-37-125. Powers of county attorney to investigate. (1) Nothing in chapters 35, 36, or 37 of this title prevents a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of chapters 35, 36, or 37 of this title that are held by a political committee or candidate involved in an election to be held within the county. However, the inspections must be conducted during reasonable office hours.

(2) A county attorney may:

(a) administer oaths and affirmations;

(b) subpoena witnesses and compel their attendance;

(c) take evidence; and

(d) require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of chapters 35, 36, or 37 of this title."

Section 242. Section 13-37-126, MCA, is amended to read:

"13-37-126. Names not to be printed on ballot. (1) The name of a candidate shall not be printed on the official ballot for ~~a general or special~~ an election if the candidate or a political treasurer for a candidate fails to file any

statement or report as required by this ~~title~~ chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner must, by a written statement, notify the secretary of state or the ~~city or county clerk or the clerk of a school district~~ election administrator that a candidate or a candidate's ~~political~~ treasurer has not complied with the provisions of this ~~title~~ chapter, as described in subsection (1), and that a candidate's name should not be printed on the official ballot."

Section 243. Section 13-37-127, MCA, is amended to read:

"13-37-127. Withholding of certificates of nomination or election. (1) ~~No~~ A certificate of election shall not be granted to any candidate until he or his political treasurer has filed the reports and statements that must be filed pursuant to the provisions of this ~~title~~ chapter. No candidate for an elective office may assume the powers and duties of that office until he has received a certificate of election as provided by law. A certificate of election shall only be issued by the public official responsible for issuing a certificate or commission of election ~~after receiving written assurance from the commissioner that a~~

~~candidate has filed all of the reports that must be filed pursuant to the provisions of this title.~~

(2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the public official responsible for issuing a certificate of nomination or election that a candidate or his treasurer has complied with the provisions of this chapter as described in subsection (1) and that a certificate of nomination or election may be issued."

NEW SECTION. Section 244. Cause of action created. (1) Except as provided in 13-37-306, any person who intentionally or negligently violates any of the reporting provisions of [Title 13, chapter 37,] shall be liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount not more than the amount or value not properly reported.

(2) Any person who makes or receives a contribution or expenditure in violation of 13-35-225, 13-35-227, 13-35-228, or [Title 13, chapter 37,] is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

NEW SECTION. Section 245. Liability and disposition

of fines. In determining the amount of liability under [section 244], the court may take into account the seriousness of a violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action brought by a county attorney, the county shall receive 50% of the amount recovered. The remaining 50% shall be deposited in the general fund of the state. In an action brought by the commissioner, the entire amount recovered shall be paid to the general fund of the state.

NEW SECTION. Section 246. Limitation of action. No action may be brought under [section 245 and section 246] more than 4 years after the occurrence of the facts which give rise to the action. No more than one judgment against a particular defendant may be had on a single state of facts. The civil action created in [section 245 and section 246] shall be the exclusive remedy for violation of a contribution, expenditure, and reporting provisions of this chapter, except as provided in 13-37-306. These provisions are not subject to the misdemeanor penalties of 13-35-103 but may be a ground for contest of election or removal from office as provided in 13-35-105(3) and Title 13, chapter 36.

Section 247. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. Except as provided in

13-37-206, each candidate ~~for nomination or election to office~~ and each political committee shall appoint one campaign treasurer. ~~No contribution shall be received or expenditure made by or on behalf of a candidate or political committee until the candidate or political committee appoints a campaign treasurer~~ and ~~certifies~~ certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file ~~the~~ the certification, which shall include an organizational statement ~~properly acknowledged by a notary public~~ and ~~setting~~ set forth of the name and address of ~~the campaign treasurer and~~ all other officers, if any, ~~of the political committee~~, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee shall be filed with the commissioner and the appropriate county clerk and recorder as specified for the filing of reports in 13-37-225."

Section 248. Section 13-37-202, MCA, is amended to read:

"13-37-202. Deputy campaign treasurers. (1) A campaign treasurer may appoint deputy campaign treasurers, but not more than one in each county in which the campaign is

conducted. Each candidate and political committee shall certify the full name and complete address of the campaign treasurer and all deputy campaign treasurers with the office with whom the candidate or the political committee is required to file reports.

(2) Deputy campaign treasurers may exercise any of the powers and duties of a campaign treasurer as set forth in this chapter when specifically authorized in writing to do so by the campaign treasurer and the candidate, in the case of a candidate, or the campaign treasurer and the chairman of the political committee, in the case of a political committee. The written authorization shall be maintained as a part of the records required to be kept by the treasurer as specified in 13-37-208."

Section 249. Section 13-37-205, MCA, is amended to read:

"13-37-205. Campaign depositories. Except as provided in 13-37-206, each candidate and each political committee shall designate one primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or political committee. The candidate or political committee may also designate one secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may

make deposits in and make expenditures from secondary depositories when authorized to do so as provided in 13-37-202(2). Only a bank authorized to transact business in Montana may be designated as a campaign depository. The candidate or political committee shall file the name and address of each primary and secondary depository so designated at the same time and with the same officer with whom the candidate or committee files the name of his or its campaign treasurer pursuant to 13-37-201. Nothing in this section shall prevent a political committee or candidate from having more than one campaign account in the same depository, but a candidate may not utilize his regular or personal account in the depository as a campaign account."

Section 250. Section 13-37-206, MCA, is amended to read:

"13-37-206. Exception for certain school districts. The provisions of ~~13-37-201 through 13-37-205~~ this part, except 13-37-211, do not apply to candidates for the office of trustee of a school district, their political committees, and political committees organized to support or oppose a school district issue when the school district is:

(1) a first-class district located in a county having a population of less than 15,000;

(2) a second or third-class district; or

(3) a county high school district having a student

enrollment of less than 2,000."

Section 251. Section 13-37-208, MCA, is amended to read:

"13-37-208. Treasurer to keep records. (1) The campaign treasurer of each candidate and each political committee shall keep detailed accounts (current within not more than 10 days after the date of receiving a contribution or making an expenditure, except that accounts shall be current as of the closing date of books for a reporting period as specified in 13-37-226(4)) of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a ~~statement~~ report filed under this chapter.

(2) Accounts of a deputy campaign treasurer shall be transferred to the treasurer of a candidate or political committee before the candidate or political committee finally closes its books or when the position of a deputy campaign treasurer becomes vacant and no successor is appointed.

~~(2)~~(3) Accounts kept by a campaign treasurer of a candidate or political committee shall be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer."

Section 252. Section 13-37-215, MCA, is amended to

read:

"13-37-215. Petty cash funds allowed. (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) for all statewide candidates ~~for nomination or election on a statewide basis~~ and ~~all~~ political committees ~~operating on a statewide basis~~ filing reports pursuant to 13-37-226(1), $100 per week; and

(b) for all other candidates and political committees, $20 per week.

(2) The petty cash fund may be spent for office supplies, transportation expenses, and other necessities in an amount of less than $10. Petty cash shall not be used for the purchase of time, space, or services from any communications medium."

Section 253. Section 13-37-216, MCA, is amended to read:

"13-37-216. ~~Limitation~~ Limitations on contributions. (1) Aggregate contributions for all elections in a campaign by an individual, other than the candidate, to a candidate and political committees organized on his behalf are limited as follows:

(a) for candidates filed jointly for the office of

governor and lieutenant governor, not to exceed $1,500;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $750;

(c) for a candidate for public service commissioner, district court judge, or state senator, not to exceed $400; and

(d) for a candidate for ~~district court judge~~ any other public office, not to exceed ~~$300;~~ $250.

~~(e) for a candidate for the legislature, not to exceed $250; and~~

~~(f) for a candidate for city or county office, not to exceed $200.~~

(2) An For the purposes of this subsection, an independent committee means a committee which is not specifically organized on behalf of a particular candidate or which is not controlled either directly or indirectly by a candidate or candidate's committee and which does not act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions. For the purpose of limitation on contributions, political party organizations are independent committees. Aggregate contributions by an independent committee to a candidate and political committees organized on his behalf for all elections in a campaign are limited as

follows:

(a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed $8,000;

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed $3,000;

(c) for a candidate for public service commissioner, not to exceed $1,000;

~~(d) for a candidate for district court judge, not to exceed $250;~~

~~(e)~~(d) for a candidate for the ~~legislature~~ state senate, not to exceed ~~$250~~ $600;

~~(f)~~(e) for a candidate for ~~city or county~~ any other public office, not to exceed ~~$200~~ $300.

(3) The limitations imposed by this section do not apply to public funds contributed to a candidate under any ~~public financing provision~~ part 4 of this code chapter."

Section 254. Section 13-37-217, MCA, is amended to read:

"13-37-217. ~~Payments~~ Contributions in name of undisclosed principal. No person may make a ~~payment~~ contribution of his own money or of another person's money to any other person in connection with a ~~nomination or~~ any election in any other name than that of the person who in truth supplies such money. No person may knowingly receive

such ~~payment~~ a contribution or enter or cause the same to be entered in his accounts or records in another name than that of the person by whom it was actually furnished~~, provided, if the money is received from the treasurer of any political committee, it is sufficient to enter the same as received from the treasurer.~~"

Section 255. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required. (1) Except as provided in ~~13-37-226(3)~~ 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this ~~section~~ chapter shall be filed with the commissioner and with the county clerk and recorder of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports shall be filed with the county clerk and recorder of the county in which the election is to be held or, if the election is to be held in more than one county, with the clerk and recorder in the county that the commissioner ~~shall specify~~ specifies.

(2) In lieu of all contribution and expenditure

reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law."

Section 256. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the ~~voters~~ electors of Montana~~, the political committees for such candidates,~~ and political committees which are specifically organized to support or oppose a particular statewide candidate or issue shall file reports:

(a) on the 10th day of March and September in each year that an election is to be held, and on the 15th and 5th days next preceding the date on which an election is held, and within 24 hours after receiving a contribution of $500 or more ~~at any time after the last preelection report~~ if received between the 10th day before and the day of the election;

(b) not more than 20 days after the date of the election; and

(c) on the 10th day of March and September of each year following an election ~~so long as there is an unexpended balance or an expenditure deficit in a campaign account, and~~

until the candidate or political committee files a closing report as specified in 13-37-228(3).

~~(d)--whenever--a--candidate--or---political---committee finally-closes-its-books,~~

(2) Candidates for a state district office, including but not limited to candidates for the legislature, public service commission, or district court judge, ~~their-political committees,~~ and political committees which are specifically organized to support or oppose a particular state district ~~issues~~ candidate or issue shall file reports:

(a) on the 10th day next preceding the date on which an election is held and within 24 hours after receiving a contribution of $100 or more ~~at-any-time-after the-last preelection-report~~ if received between the 15th day before and the day of the election;

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee ~~finally--closes-its-books~~ files his or its closing report as specified in 13-37-228(3).

(3) Candidates for any other public office~~,--their political--committees,~~ and political committees which are specifically organized to support or oppose a particular local ~~issues~~ issue shall be required to file the reports specified in subsection (2) only if the total amount of

contributions received or the total amount of funds expended for ~~an--election~~ all elections in a campaign, excluding the filing fee paid by the candidate, exceeds $500~~;~~, except ~~candidates--for--the-office-of-trustee-of-a-school-district, their--political--committees,---and---political---committees organized-to-support-or-oppose-a-school-district-issue-shall not--be--required-to-comply-with-the-provisions-of-13-37-225 through-13-37-228-when-the-school-district-is:~~

~~(a)--a-first-class-district-located-in-a-county--having a-population-less-than-15,000;~~

~~(b)--a-second--or-third-class-district;-or~~

~~(c)--a--county--high--school- district-having-a-student enrollment-less-than-2,000~~ as provided in 13-37-206.

(4) For the purposes of this subsection, a committee which is not specifically organized to support or oppose a particular candidate or ballot issue and which receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file reports:

(a) on the 10th day next preceding the date of an election in which it participates by making an expenditure;

(b) not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a closing report at the close of each calendar year, on a date to be prescribed by the commissioner.

(5) The commissioner may promulgate rules regarding the extent to which organizations that are not primary political committees but are incidental political committees shall report their politically related activities in accordance with this chapter.

~~(4)~~(6) All reports required by this section shall be complete as of the ~~date--prescribed-by-the-commissioner, which-shall-not-be-less-than-5-or-more-than-10-days~~ 2th day before the date of filing as specified in 13-37-225(2) and subsections (1) through ~~(3)~~ (5) of this section."

Section 257. Section 13-37-227, MCA, is amended to read:

"13-37-227. Comprehensive report when several candidates or issues involved. The commissioner shall adopt rules that will permit political committees, including political parties, to file copies of a single comprehensive report when they support or oppose more than one candidate or issue. The commissioner shall adopt rules under which committees filing periodic reports with the federal election commission and committees headquartered outside the state of Montana shall report in accordance with this title."

Section 258. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 shall be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report shall cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101~~(2)~~ until the date prescribed by ~~the commissioner~~ 13-37-226(2) for the filing of the appropriate initial report pursuant to ~~13-37-225(2) and~~ subsections (1) through ~~(3)~~ (4) of 13-37-226.

(2) Subsequent periodic reports shall cover the period of time from the closing of the previous report to a date ~~prescribed by the commissioner, which shall not be less than~~ 5 days ~~or more than 10 days~~ before the date of filing of a report pursuant to 13-37-226(1) through (4).

(3) ~~Final~~ Closing reports shall cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which he or it participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or

made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

Section 259. Section 13-37-229, MCA, is amended to read:

"13-37-229. Disclosure of contributions received. Each report required by this chapter shall disclose the following information~~, except that a candidate shall only be required to report the information specified in this section if the transactions involved were undertaken for the purpose of influencing an election~~:

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made aggregate contributions, other than loans, of $25 or more to the candidate or political committee (including the purchase of tickets and other items for events such as dinners, luncheons, rallies, and similar fund-raising events) within the reporting period, together with the aggregate amount of those contributions within the reporting period, and the total amount of contributions made by that person;

(3) the total sum of individual contributions made to or for the political committee or candidate and not reported

under subsection (2) of this section;

(4) the name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds, together with the amount and dates of all transfers;

(5) each loan from any person during the reporting period, together with the full names and mailing addresses (occupation and principal place of business, if any) of the lender and endorsers, if any, and the date and amount of each loan;

(6) the amount and nature of debts and obligations owed to a political committee or candidates, in the form prescribed by the commissioner;

(7) an itemized account of proceeds which total less than $25 from a person from:

~~(a) the sale of tickets to each dinner, luncheon, rally, and other fund-raising event;~~

~~(b) mass collections made at such an event; and~~

~~(c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, bumpers, literature, and similar materials;~~

(8) each contribution, rebate, refund, or other receipt not otherwise listed under subsections (2) through (6) of this section during the reporting period;

(9) the total sum of all receipts received by or for

the committee or candidate during the reporting period;

(10) other information that may be required by the commissioner to fully disclose the sources of funds used to support or oppose candidates or issues."

Section 260. Section 13-37-231, MCA, is amended to read:

"13-37-231. Reports to be certified as true and correct. (1) A report required by this chapter to be filed by a candidate or political committee shall be verified as true and correct by the oath or affirmation of the individual filing the report. The individual filing the report shall be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner. ~~The oath or affirmation shall be made before an officer authorized to administer oaths.~~

(2) A copy of a report or statement filed by a candidate or political committee shall be preserved by the individual filing it for a period ~~of time to be designated by the commissioner~~ coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer.

~~(3) The commissioner may promulgate rules regarding the extent to which organizations that are not primarily political committees but are incidentally political committees shall report their politically related activities in accordance with this chapter.~~"

NEW SECTION. Section 261. Party rules to be filed with the secretary of state. The state central committee of each political party in this state must file a current copy of the rules of government of the party with the secretary of state.

NEW SECTION. Section 262. County committee rules to be filed with the election administrator. The county committee of each political party of this state must file a current copy of its rules of government with the election administrator.

Section 263. Section 7-2-2203, MCA, is amended to read:

"7-2-2203. Limitation on location of boundary of new county. (1) Except as provided in subsection (2), no line of any new county shall pass within 15 miles of the courthouse situated at the county seat of the county sought to be divided.

(2) Such county line may be run within a distance of 10 miles of a county seat in cases where the natural contour of the county, by reason of mountain ranges or other topographical conditions, is such as to make it difficult to reach the county seat. In such cases, a petition signed by at least 50% of the ~~voters~~ registered electors in the proposed new county shall be presented to the judge of the

district court in which the affected county is located, asking for the appointment of a commission of five disinterested ~~persons~~ individuals, who shall determine if the topographical conditions ~~are--such--as-to~~ warrant the fixing of the county division lines closer than at 15 miles from the county seat, as such boundaries are legally fixed and determined at the date of the filing of the petition or petitions referred to in 7-2-2205 and 7-2-2212."

Section 264. Section 7-2-2205, MCA, is amended to read:

"7-2-2205. Petition for creation of new county. (1) Whenever it is desired to divide any county or counties and form a new county out of a portion of the territory of ~~such~~ the then-existing county or counties, a petition shall be presented to the board of county commissioners of the county from which the new county is to be formed, in case said proposed new county is to be formed from but one county, or to the board of county commissioners of the county from which the largest area of territory is proposed to be taken for the formation of such new county, in case said new county is to be formed from portions of two or more existing counties.

(2) (a) ~~Such~~ The petition shall be signed by at least 50% of the ~~qualified~~ registered electors of the proposed new ~~county-whose-names-appear-on-the-official-registration-books~~

~~and-who-are-shown-thereon-to-have-voted-at-the-last--general election--preceding-the-presentation-of-said-petition-to-the board-as-herein-provided.~~

(b) In cases where the proposed new county is to be formed from portions of two or more counties, separate petitions shall be presented from the territory taken from each county, and each of ~~said-separate~~ the petitions shall be signed by at least 50% of the ~~qualified~~ registered electors of ~~each-of-said~~ the proposed portions.

(c) ~~Such~~ The signatures need not all be appended to one paper but may be signed to several petitions, which must be similar in form. When so signed, the several petitions may be fastened together and shall be treated and presented as one petition."

Section 265. Section 7-2-2211, MCA, is amended to read:

"7-2-2211. Hearing on petition -- protest. (1) At the time so fixed for ~~said~~ the hearing, the board of county commissioners shall proceed to hear the petitioners and any opponents and protestants upon the petition or protests filed on or before the time fixed for the hearing. The board may adjourn such hearing from time to time, but not for more than 10 days after the time fixed for the hearing, and shall receive the proof to establish or controvert the facts set forth in ~~said~~ the petition.

(2) (a) No petition or protest or petition for the exclusion of territory shall be considered unless ~~the--same~~ it is filed at least 1 day before the time fixed for the hearing.

(b) ~~Such~~ A petition for the exclusion of territory shall contain the names of not less than 50% of the ~~qualified~~ registered electors who are resident property taxpayers of any territory to be excluded.

(c) All such territory being excluded must be in one block ~~and contain~~ containing an area of not less than 36 square miles and be totally within one county and contiguous thereto.

(3) No withdrawals of signatures to the original petition for the creation of a proposed county shall be filed or considered which have not been filed with the county clerk on or before the date fixed for the hearing. No withdrawals of any signatures from the petition for the exclusion of territory shall be received or considered which are not filed within 5 days after the filing of the petition for such exclusion of territory."

Section 266. Section 7-2-2212, MCA, is amended to read:

"7-2-2212. Exclusions and additions of territory upon petition. (1) Except as provided in subsection (3), on final hearing, the board of commissioners, upon petition of not

less than 50% of the ~~qualified~~ registered electors (as shown by the official registration ~~books~~ records on the day of the filing of ~~any--such~~ the petition) of any territory lying within ~~said~~ the proposed new county and contiguous to the boundary line of the proposed new county and of the old county from which such territory is proposed to be taken and lying entirely within a the single old county and described in ~~said~~ the petition, asking that ~~said~~ the territory be not be included within the proposed new county, must make such changes in the proposed boundaries as will exclude ~~such~~ the territory from ~~such~~ the new county and shall establish and define ~~such~~ the boundaries. Petitions for exclusion shall be disposed of in the order in ~~point of~~ time in which they are filed with the clerk of the board.

(2) Except as provided in subsection (3), on final hearing, the board, upon petition of not less than 50% of the ~~qualified~~ registered electors of any territory lying outside ~~said~~ the proposed new county and contiguous to the boundary line of ~~said~~ the proposed new county and of the old county or counties from which such territory is proposed to be included, asking that ~~said~~ the territory be included within the proposed new county, must make such changes in the proposed boundaries as will include such territory in ~~such~~ the new county and shall establish and define ~~such~~ the boundaries.

(3) (a) The segregation of ~~such~~ the territory from any old county or counties ~~shall~~ must not leave ~~such~~ the county or counties with less than $12 million of assessed valuation, based upon the last assessment roll.

(b) No The change or changes ~~so~~ made ~~shall~~ must not result in reducing the valuation of the proposed new county to less than an assessed valuation of $10 million, inclusive of all assessed valuation.

(c) No change shall be made which ~~shall leave~~ leaves the territory so excluded separate and apart from and without the county of which it was formerly a part.

(4) On final determination of boundaries, no changes in the boundaries originally proposed ~~shall~~ may be made except as prayed for in said petition or petitions or to correct clerical errors or uncertainties."

Section 267. Section 7-2-2213, MCA, is amended to read:

"7-2-2213. Resolution of board of county commissioners. The board of county commissioners, on the final hearing of such petition or petitions, shall, by a resolution entered on its minutes, determine:

(1) the boundaries of the proposed new county, and the boundaries so determined by ~~said~~ the board shall be the boundaries of ~~such~~ the proposed new county if it ~~be~~ is created as herein provided;

(2) whether the ~~said~~ the petition contains the genuine signatures of at least 50% of the ~~qualified~~ registered electors of the proposed new county, as herein required, or, in cases where separate petitions are presented from portions of two or more existing counties, as herein required, whether each petition is signed by at least 50% of the ~~qualified~~ registered electors of that portion of each of ~~such~~ the existing counties which is proposed to be taken into the proposed new county;

(3) whether any line of the proposed new county passes within 15 miles of the courthouse situated at the county seat of any county proposed to be divided, except as otherwise provided;

(4) whether the proposed new county will contain property, according to the last preceding assessment, which will equal in amount at least $4 million, inclusive of all assessed valuation;

(5) whether the area of any existing county from which territory is taken to form ~~such~~ the new county will be reduced to less than 1,200 square miles of surveyed land by taking the territory proposed to be taken therefrom to form ~~such~~ the new county;

(6) whether the area of the proposed new county will contain at least 1,000 square miles of surveyed land to form ~~such~~ the new county;

(7) the class to which ~~said~~ the proposed new county will belong after its creation and the name of ~~said~~ the proposed new county as stated in ~~such~~ the petition;

(8) whether the area embraced within the proposed new county will be reasonably compact."

Section 268. Section 7-2-2214, MCA, is amended to read:

"7-2-2214. Division of territory of proposed county into various districts. The board of county commissioners shall divide the proposed new county into a convenient number of township, road, and school districts; define their boundaries; and designate the names of such districts if the board determines that:

(1) the formation of ~~said~~ the proposed new county will not reduce any county from which any territory is taken to an assessed valuation of less than $12 million, inclusive of the assessed valuation, or the area thereof to less than 1,200 square miles of surveyed land;

(2) the proposed new county contains property of an assessed valuation of at least $10 million, inclusive of all assessed valuation, and the proposed new county has an area of at least 1,000 square miles of land;

(3) no line of ~~said~~ the proposed new county passes within 15 miles of the courthouse situated at the county seat of any county proposed to be divided, except as

otherwise provided; and

(4) ~~said~~ the petition contains the genuine signatures of at least 50% of the ~~qualified~~ registered electors of the proposed new county or, in cases where separate petitions are presented from portions of two or more existing counties, as herein required, each of ~~said~~ the petitions contains the genuine signatures of at least 50% of the ~~qualified~~ registered electors of that portion of the proposed new county from which it is taken."

Section 269. Section 7-2-2215, MCA, is amended to read:

"7-2-2215. Election on question of creating new county -- proclamation and notice. (1) Within 7 weeks after its determination of the truth of the allegations of ~~said~~ the petition--~~as--aforesaid~~, the board of county commissioners shall order and give proclamation and notice of an election to be held on a specified day, not less than 90 days or more than 120 days thereafter, in the territory which is proposed to be taken for the new county, for the purpose of determining whether such territory shall be established and organized into a new county and for the election of officers and location of a county seat therefor in case the vote at ~~such~~ the election ~~shall be~~ is in favor of the establishment and organization of ~~such~~ the new county.

(2) All ~~qualified~~ registered electors residing within

the proposed new county who are ~~qualified~~ registered electors of the county or counties from which territory is taken to form ~~such~~ the proposed new county and who are to be registered under the provisions of the registration laws of the state shall be entitled to vote at ~~said~~ the election. Registration and transfers of registration shall be made and shall close in the manner and at a time provided by law for registration and transfers of registration for a general election in Montana.

(3) ~~Such~~ The proclamation and notice of election shall be published~~ at least once a week for 3 weeks before the holding of such election, in some newspaper of general circulation published in the territory which is proposed to be taken for the new county~~ as provided in [section 6], and a copy thereof shall be mailed immediately by the ~~county clerk~~ election administrator of the county in which the petition is filed to the ~~county clerk~~ election administrator of each county from which territory is to be taken for the proposed new county.

(4) The proclamation calling the election and the notice thereof provided for in this part shall be made and given exclusively by the board with which the petition for the formation and establishment of ~~such~~ the new county is filed."

Section 270. Section 7-2-2217, MCA, is amended to

read:

"7-2-2217. Appointment of election officials. ~~Said~~ The board of county commissioners shall appoint election ~~officers~~ judges to act at the election provided for in 7-2-2215 and to be paid by ~~said~~ the board.

Section 271. Section 7-2-2218, MCA, is amended to read:

"7-2-2218. Form of ballot. (1) The proclamation and notice required by 7-2-2215 shall require the ~~voters~~ electors to cast ballots which shall contain the words "For the new county of .... (giving the name of the proposed new county)" = "Yes" and "For the new county of .... (giving the name of the proposed new county)" = "No", and each ~~voter~~ elector desiring to vote for the establishment and organization of ~~said~~ the new county shall mark a cross (X) opposite the words "For the new county of ...." = "Yes" in the manner now required by law in other elections, and each ~~voter~~ elector desiring to vote against the establishment and organization of ~~said~~ the new county shall mark a cross (X) opposite the words "For the new county of .... = No" in the manner now required by law in other elections.

(2) The ballots shall also contain the names of ~~persons~~ individuals to be voted for to fill the various elective offices designated in ~~said~~ the proclamatinn for counties of the class to which ~~said~~ the proposed county will

belong, as determined by the board of county commissioners, as herein otherwise provided.

(3) There shall also be printed upon ~~said~~ the ballot the words "For the county seat" and the names of all cities or towns which may have filed with the ~~county clerk~~ election administrator a petition, signed by at least 25 ~~qualified~~ registered electors, nominating any city or town within the proposed new county for the county seat. The ~~voter~~ elector shall designate his choice for county seat by marking a cross (X) opposite the name of the city or town for which he desires to cast his ballot."

Section 272. Section 7-2-2219, MCA, is amended to read:

"7-2-2219. Conduct of election. (1) (a) The board issuing the proclamation and notice of election pursuant to 7-2-2215 shall cause the ~~clerk~~ election administrator of ~~said~~ the county to furnish to the ~~officers~~ election judges of each precinct in such proposed new county all ~~ballots, poll books, tally books, registers for voters' signatures, ballot boxes, and other~~ election supplies and equipment necessary to conduct ~~such~~ the election and which are not hereinafter specifically directed to be furnished by the ~~clerk~~ election administrator of another county or counties.

(b) The ~~county clerk~~ election administrator of each county from which territory is taken for the proposed new

county shall, not less than 5 days before the date of ~~such~~ the election, furnish ~~to~~ for each ~~board of election~~ precinct within ~~said~~ the proposed new county a ~~copy of the official register~~ precinct register for the precincts of ~~such~~ the proposed new county ~~as~~ which are within their respective counties ~~and the copies of indexes thereof required by law containing the names of all persons who were qualified electors at the last general election before the date of such election.~~

(2) ~~Such~~ The election shall be governed and controlled by the general election laws of the state, so far as the same shall be applicable and except as otherwise provided herein. The provisions of the election laws relating to preparation, printing, and distribution of sample ballots, except the provisions of ~~said~~ the laws relating to primary elections in this state, shall have application to any election provided for in this part.

(3) The returns of all elections for the creation of the county, for officers, and for location of the county seat as provided for in this part shall be made to and canvassed by the board of county commissioners of the county from which the largest area is taken by the proposed county. All returns of election herein provided for shall be made to the board calling such election.

(4) All nominations of candidates for the office

offices required to be filled at ~~said~~ the election shall be made in the manner provided by law for the nomination of candidates by petition."

Section 273. Section 7-2-2222, MCA, is amended to read:

"7-2-2222. Effect of election — resolution by county commissioners. (1) If, upon the canvass of the votes cast at ~~such~~ the election, it appears that more than 50% of the votes cast on the issue are "For the new county of .... -- Yes", the board of county commissioners shall, by a resolution entered upon its minutes, declare such territory duly formed and created as a county of this state, of the class to which the same ~~shall belong~~ belongs and under the name of .... County, and that the city or town receiving the highest number of votes cast at ~~said~~ the election for county seat shall be the county seat of ~~said~~ the county until removed in the manner provided by law and designate and declare the ~~person~~ individuals receiving, respectively, the highest number of votes for the several offices to be filled at ~~said~~ the election to be duly elected to ~~such~~ the offices.

(2) However, if, upon such canvass, it appears that more than 50% of the votes cast on the issue at ~~said~~ the election are "For the new county of .... -- No", the board canvassing ~~said~~ the vote as provided herein shall pass a resolution in accordance therewith, and thereupon the

proceedings relating to division of such county or counties shall cease. No other proceedings in relation to any other division of ~~said~~ the old county or counties shall be instituted for at least 2 years after such determination."

Section 274. Section 7-2-2223, MCA, is amended to read:

"7-2-2223. Procedure to complete creation of county. (1) The board of county commissioners shall forthwith cause a copy of its resolution, authorized by 7-2-2222(1) and duly certified, to be filed in the office of the secretary of state. Ninety days ~~from and~~ after the date of such filing:

(a) said new county shall be ~~deemed~~ considered to be fully created;

(b) the organization thereof shall be ~~deemed~~ considered completed; and

(c) ~~such~~ the officers shall be entitled to enter immediately upon the duties of their respective offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties, as required by the laws of the state.

(2) (a) The ~~clerk~~ election administrator of the ~~board~~ county with which ~~said~~ the petition was filed as herein provided must immediately make out and deliver to each of ~~said persons~~ the individuals so declared and designated to be elected a certificate of election authenticated by his

signature and the seal of ~~said~~ ~~the~~ county. The ~~persons~~ individuals elected members of the board and the county clerk shall, immediately upon receiving their certificates of election, assume the duties of their respective offices.

(b) All other officers take office 90 days after the filing of the resolution herein provided for with the secretary of state."

Section 275. Section 7-2-2302, MCA, is amended to read:

"7-2-2302. Role of county clerk of county created by legislature. (1) The ~~person~~ individual appointed to the office of county clerk in the bill creating the county shall be notified in writing, by the county commissioners or some one of them, of the time and place of the meeting required by 7-2-2301. He must attend the meeting and act as the clerk thereof and keep a record of the proceedings.

(2) If no ~~person~~ individual is appointed to the office of county clerk by the act creating the county, the commissioners shall at ~~such~~ the meeting select some ~~person~~ individual qualified to hold the office of county clerk to act as clerk of ~~such~~ the meeting.

(3) The individual appointed county clerk shall also serve as election administrator."

Section 276. Section 7-2-2312, MCA, is amended to read:

"7-2-2312. Election on question of locating permanent county seat. (1) Except as provided in subsection (2), at ~~said~~ the first general election after the creation of the county, it shall be the duty of the board of county commissioners and ~~county--clerk~~ election administrator to have separate official ballots printed and distributed for the use of the electors at said election. The ballots shall be in the form and contain the same matter as the ballots provided for in 7-2-2316, and the provisions of 7-2-2316(4) and 7-2-2318 shall apply to and govern the manner of voting and of canvassing said ballots. The board shall declare the result of such election and the location of the permanent county seat, and said county seat shall be located in the manner and according to the provisions of 7-2-2318.

(2) (a) At any time within 6 months after the passage of an act creating a new county, a petition or petitions may be filed with the ~~county--clerk--of--the--board--of--county commissioners~~ election administrator of such county asking the board to submit the question of the location of the permanent county seat to the electors of the county at a special election to be called and held in the manner provided in this part.

(b) Said petition or petitions must contain in the aggregate the names of at least 100 qualified electors whose names also appear as registered electors in some

registration district established and existing in the territory embraced in the new county at the last general election held therein. The petition or petitions, when filed with the board, must also have certificates attached thereto from the ~~county clerk~~ election administrator of the county in which the ~~person~~ individual or ~~persons~~ individuals signing the petition resided before the creation of the new county, certifying that the names of the ~~persons~~ individuals signing said petition or petitions appear in the registration books of his county containing the names of the electors registered in the last general election in the districts now embraced in the new county."

Section 277. Section 7-2-2313, MCA, is amended to read:

"7-2-2313. Procedure to hold special election. (1) Upon filing ~~said~~ the petition or petitions, duly certified to as provided in 7-2-2312, with the ~~county clerk~~ election administrator of the new county, he must immediately notify the chairman of the board of county commissioners who, upon receipt of such notice, must call a meeting of the board, to be held within 10 days after the filing of ~~said~~ the petition, for the purpose of considering the same. If the board at such meeting finds that said petition conforms to the requirements of and is in accordance with the provisions of 7-2-2312, it shall at ~~said~~ the meeting, by a resolution

~~spread upon~~ entered in its minutes, call a special election of the ~~qualified~~ registered electors of said county for the purpose of voting upon the question of the location of the permanent county seat.

(2) ~~Said~~ The election shall be held on Tuesday and not less than 40 or more than 60 days after the date of calling the same. The board must issue an election proclamation containing a statement of the time of the election and the question to be submitted. A copy of this proclamation must be published in some newspaper printed in the county, if any, and posted at each place of election at least 10 days before the election."

Section 278. Section 7-2-2314, MCA, is amended to read:

"7-2-2314. Establishment of ~~registration and polling~~ precincts and ~~voting~~ polling places -- appointment of ~~registry agents~~ deputy registrars. (1) At the meeting of the board at which the special election is called for the purpose of locating the permanent county seat, the board shall, by resolution ~~spread upon~~ entered in its minutes, divide the county into ~~registration districts~~ precincts and establish polling ~~precincts~~ places in the manner provided by law.

~~(2) It must also at such meeting make an order designating the house or place within each precinct where~~

~~the election shall be held.~~

~~(3)~~(2) It must also, at the same session of the board, appoint ~~registry agents~~ deputy registrars for the several ~~registration districts~~ precincts established by it, who must possess the qualifications required by law for ~~registry agents. The county clerk must furnish the said registry agents with books, blanks, and other stationery required for the proper performance of their duties~~ deputy registrars."

Section 279. Section 7-2-2315, MCA, is amended to read:

"7-2-2315. Appointment of election judges. (1) At the same meeting of the board of county commissioners at which the special election for the location of the permanent county seat is called, the board shall appoint three judges of election for each precinct in the county, who shall act as the judges at ~~said~~ the election. The judges appointed for ~~said~~ the special election must qualify as required by the general election law.

(2) It shall be the duty of the ~~county clerk~~ election administrator to have printed and distributed to the election judges ~~of election~~ the necessary ballots, the form of which shall be as provided in 7-2-2316 and 7-2-2319, and also supply the judges with the necessary ~~books, records, stationery, and ballot boxes~~ supplies required to hold such election in the manner provided by law."

Section 280. Section 7-2-2702, MCA, is amended to read:

"7-2-2702. Petition for abandonment of county. (1) A petition may be filed with the county clerk of a county asking that the question of abandoning and abolishing the organization and corporate existence of ~~such~~ the county and attaching its territory to and making the same a part of some adjoining county be submitted to the qualified electors of ~~such~~ the county at an election. ~~Such~~ The petition shall state the name of the adjoining county to which the territory of ~~such~~ the county so to be abandoned and abolished shall be attached and made a part.

(2) ~~Such~~ The petition shall be signed by not less than 35% of the qualified electors of the county whose names appear upon the registration records of such county, shall contain the post-office address and voting precinct of each ~~person~~ individual signing ~~the same~~ it, and shall state the name and address of three ~~persons~~ individuals to whom notice of the insufficiency of the petition shall be sent in the event that the petition ~~shall~~ does not have the required number of signatures of ~~qualified~~ registered electors signed thereto. No person, after signing any such petition, shall be allowed or permitted to withdraw his signature or name therefrom."

Section 281. Section 7-2-2703, MCA, is amended to

read:

"7-2-2703. Processing of petition -- certification to county commissioners. (1) It shall be the duty of the ~~county clerk~~ election administrator, within 30 days after the filing of ~~such~~ the petition, to examine ~~the same~~ it and to ascertain and determine from the registration records of the county whether ~~such~~ the petition is signed by the required number of ~~qualified~~ registered electors. ~~Such clerk~~ The election administrator may be authorized by the board of county commissioners to employ additional help in his office to assist him in the work of examining ~~such~~ the petition, and ~~such~~ the board shall provide for their compensation.

(2) When ~~such~~ the examination is completed, ~~said~~ the ~~clerk~~ election administrator shall forthwith attach to ~~such~~ the petition his certificate, properly dated and signed, showing the result of his examination. If ~~said~~ the certificate shows that ~~said~~ the petition is signed by the required number of ~~qualified~~ registered electors, ~~said clerk~~ the election administrator shall immediately present ~~said~~ the petition to the board if ~~such~~ the board ~~be~~ is then in session; otherwise, at its first regular meeting after the date of ~~such~~ the certificate."

Section 282. Section 7-2-2704, MCA, is amended to read:

"7-2-2704. Hearing on petition by county commissioners

-- notice. (1) Whenever any such petition is presented to the board of county commissioners of a county with a certificate of the ~~county clerk~~ election administrator attached thereto and showing that ~~said~~ the petition has been signed by not less than 35% of the ~~qualified~~ registered electors of ~~such~~ the county whose names appear upon the registration records of ~~said~~ the county, as provided in 7-2-2702 and 7-2-2703, ~~said~~ the board shall, immediately upon presentation of ~~such~~ the petition, make and enter an order in its minutes fixing a day for considering and taking final action on ~~said~~ the petition. The date for final action shall be not less than 30 or more than 35 days after the date when ~~said~~ the order is made.

(2) The board shall cause a notice to be published in the official newspaper of the county to the effect that ~~such~~ the petition has been presented to ~~such~~ the board asking for the abandonment and abolishment of the county and that ~~said~~ the board will meet at the time specified in ~~said~~ the order for considering and taking final action on ~~said~~ the petition, at which time any ~~and all~~ registered electors of the county interested therein may appear and be heard thereon. ~~Such~~ The notice shall be published once a week for 2 successive weeks immediately following the making of ~~such~~ the order.

Section 283. Section 7-2-2706, MCA, is amended to

read:

"7-2-2706. Processing of petition to amend proposed consolidation -- certification to county commissioners. Whenever any petition is filed under 7-2-2705, the ~~county clerk~~ election administrator shall immediately examine the same and determine from the registration records of the county whether ~~such~~ the petition has been signed by the required number of registered electors and shall attach thereto his certificate showing the total number of registered electors residing within the boundaries described in ~~said~~ the petition and the number thereof whose names appear on said petition and shall deliver ~~such~~ the petition, with ~~such~~ the certificate attached, to the board of county commissioners when ~~such~~ the board meets to consider and take final action on ~~such~~ the petition for abandonment."

Section 284. Section 7-2-2708, MCA, is amended to read:

"7-2-2708. Form of resolution. The resolution authorized by 7-2-2707 shall be in substantially the following form:

Whereas, there has been filed with the ~~clerk~~ election administrator of (name) county, Montana, a petition asking that the organization and corporate existence of ~~said~~ the county be abandoned and abolished and its territory attached to and made a part of an adjoining county, the county of

(name), Montana; and

Whereas, ~~said~~ the petition has been presented to the board of county commissioners of (name) County, with a certificate of the ~~clerk~~ election administrator of ~~said~~ the county attached thereto showing that ~~said~~ the petition has been signed by not less than 35% of the registered electors of ~~said~~ the county; and

(If ~~any~~ a petition for attaching any part or portion of the county, in case of abandonment, to an adjoining county or counties other than the county named in the petition for abandonment, and found to have been signed by the required number of registered electors, insert the following for each petition):

Whereas, there has been filed a petition signed by not less than 50% of the registered electors residing within that part or portion of ~~said~~ the county described as (give description as contained in petition), praying that the part or portion of ~~said~~ the county within ~~such~~ the boundaries be attached to and made a part of the county of (name of county given in petition) if ~~said~~ the county ~~be~~ is abandoned~~;~~.

Now, therefore, be it resolved that, if ~~said~~ (name) County shall be abandoned and abolished, the territory embraced within its boundaries shall be attached to and become part of the following: (if all to be attached to one adjoining county so state~~;~~, but if parts or portions to any

other county or counties, then describe the part or portion to go to each adjoining county as well as to the county named in the petition for abandonment).

Be it further resolved, that the county clerk of (name) County, Montana, make copies of this resolution, each with a copy of said petition for abandonment, with the signatures omitted therefrom (and copies of petitions for attaching parts or portions of said county to adjoining county or counties other than the county named in the petition for abandonment, if any were filed and found sufficient, with signatures omitted); and certify to the same and affix the seal of the county thereto and transmit one of ~~said~~ the copies to the governor of Montana and one of ~~said~~ the copies to the clerk of each county to which any part of ~~said~~ the county is to be attached if abandoned."

Section 285. Section 7-2-2709, MCA, is amended to read:

"7-2-2709. Special election on question of abandonment and consolidation. (1) (a) Upon receipt of a certified copy of the resolution provided for in 7-2-2707, the governor shall, within 10 days thereafter, issue his proclamation calling a special election in the county in which the petition referred to in ~~said~~ the resolution was filed and in each county designated in ~~such~~ the resolution as a county to which any of the territory of ~~such~~ the county, if abandoned

and abolished, shall be attached and made a part.

(b) ~~Such~~ The proclamation shall fix a day for holding such the election in such counties, which shall be not less than 90 days or more than 120 days after the date of the governor's proclamation calling the same, provided that if a general election will be held in ~~said~~ the counties ~~within~~ not less than 90 days or more than 120 days after the date of such proclamation, the governor, in ~~such~~ the proclamation, shall direct that ~~such~~ the question be submitted to the ~~qualified~~ registered electors of ~~said~~ the counties at ~~such~~ the general election. ~~Such~~ The proclamation shall be filed in the office of the secretary of state, and copies thereof shall be transmitted by the governor to the county-clerk election administrator of each of the counties in which ~~such~~ the election is to be held.

(2) At the election there shall be submitted:

(a) to the ~~qualified~~ registered electors of the county in which ~~such~~ the petition was filed, the question of whether or not ~~such~~ the county shall be abandoned and abolished and its territory attached to and made a part of the county designated and named for ~~such~~ the purpose in ~~said~~ the petition; and

(b) to the ~~qualified~~ registered electors of each county named and designated in ~~such~~ the resolution as a county to which a part of the territory of the county

proposed to be abandoned and abolished shall be attached and made a part if ~~such~~ the county shall be so abandoned and abolished, the question of whether or not ~~such~~ the part of the territory of ~~such~~ the county, if abandoned and abolished, described in ~~such~~ the resolution shall be attached to ~~and~~ become a part of ~~such~~ the county."

Section 286. Section 7-2-2710, MCA, is amended to read:

"7-2-2710. Procedure to hold election. (1) The ~~county clerk~~ election administrator of each of ~~such~~ the counties, after receiving a copy of ~~such~~ the election proclamation, shall present ~~the---same~~ it to the board of county commissioners if ~~such~~ the board is then in session or, if not in session, then at the first meeting ~~thereof~~ held thereafter ~~after such clerk has received the same~~. The board of county commissioners of each of ~~such~~ the counties shall issue ~~such~~ the proclamations and give ~~such~~ the notices of election ~~as~~ which are required by the general laws of this state when questions are to be submitted to the qualified electors of a county at an election. The proclamation and notices shall include a description of the boundaries of that part of the county proposed to be abandoned and ~~to--be~~ attached to and made a part of such county if ~~said~~ the county ~~be~~ is abandoned.

(2) The ~~county clerk~~ election administrator of each of

~~such~~ the counties shall give notice of the closing of the registration books and shall cause the same to be closed at the time and in the manner provided by the general registration and election laws of this state.

(3) ~~Said~~ The election shall be held, voted, counted, and returns made and canvassed in the manner provided by the general election laws of this state."

Section 287. Section 7-2-2712, MCA, is amended to read:

"7-2-2712. Canvass of returns — proclamation of results. (1) The board of county commissioners of each county, acting as a canvassing board, must, within 10 days after the holding of ~~such~~ the election, canvass the returns of ~~such~~ the election. Within 5 days thereafter, the ~~clerk~~ election administrator of each ~~such~~ county must make and enter in the records of ~~said~~ the board a statement of the vote in ~~such~~ the county and transmit to the secretary of state, by registered or certified mail, an abstract thereof, which shall be marked "election returns".

(2) Within 10 days after receiving ~~such~~ the abstracts from all counties in which ~~such~~ the election was held and on notice from the secretary of state, the board of state canvassers shall meet and canvass, compute, and determine the vote. The secretary of state, as secretary of ~~such~~ the board, must make and file in his office a statement ~~thereof~~

of it and transmit a copy thereof to the governor.

(3) Upon receipt of ~~such~~ the copy, the governor shall issue a proclamation declaring the result of ~~such~~ the election and shall file a copy of ~~such~~ the proclamation in the office of the secretary of state and transmit a copy of ~~such~~ the proclamation to the county clerk of each of the counties in which such election was held. Each ~~such~~ county clerk shall file the same in his office and present the same to the board of county commissioners of his county if ~~such~~ the board is then in session; otherwise, at the first meeting of the board after the ~~same~~ copy has been received by ~~such~~ the clerk."

Section 288. Section 7-2-2726, MCA, is amended to read:

"7-2-2726. Status of printing contracts. (1) If the abandoned and abolished county ~~shall have~~ has theretofore entered into a printing contract in accordance with the provisions of part 24 of chapter 5 and ~~such~~ the contract ~~shall be~~ is in full force and effect on the date when ~~such~~ the county ceases to exist, all supplies and printing for the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county is attached and made a part shall be divided by the board of county commissioners of ~~such~~ the county between ~~such~~ the contract and any similar existing contract entered

into by the board in such manner as ~~such~~ the board ~~shall deem~~ considers equitable and just to the holders of both such contracts until the contract entered into by the abandoned and abolished county ~~shall have expired~~ expires.

(2) When a petition has been filed with the ~~county clerk~~ election administrator of a county for the abandonment and abolishment of ~~such~~ the county in accordance with the provisions of 7-2-2702 and 7-2-2703, the board of county commissioners of ~~such~~ the county shall not thereafter enter into any contract under the provisions of part 24 of chapter 5 until the time has expired when ~~such~~ the petition may be presented to ~~such~~ the board by the county clerk as provided in 7-2-2702 and 7-2-2703."

Section 289. Section 7-2-4101, MCA, is amended to read:

"7-2-4101. Petition to organize municipalities. (1) Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than two-thirds of the ~~qualified~~ registered electors but not more than 300 such electors, who are residents of the state and residing within the limits of the proposed incorporation, to the board of county commissioners of the county in which the territory is situated.

(2) (a) The petition must describe the limits of the

proposed city or town and of the several wards thereof, each of which shall contain 150 or more ~~qualified~~ registered electors and must not exceed 1 square mile for each 500 inhabitants resident therein.

(b) The petitioners must annex to the petition a map of the proposed territory to be incorporated and state the name of the city or town.

(3) The petition and map must be filed in the office of the ~~county clerk~~ election administrator."

Section 290. Section 7-2-4104, MCA, is amended to read:

"7-2-4104. Election on question of organization. (1) After filing the petition and census, if there ~~be~~ is the requisite number of inhabitants for the formation of a municipal corporation as required in 7-2-4103, the county commissioners must call an election of all the ~~qualified~~ registered electors residing in the territory described in the petition.

(2) ~~Said~~ The election must be held at a convenient place within the territory described in the petition, to be designated by the board.

~~(3) The board must appoint judges and clerks of election, who must qualify as required by law and after the election they must report the result to the board, together with the ballots cast at said election.~~

~~(4)~~(3) The ballots used at the election must be contain the words "For incorporation" or "Against incorporation", and all elections must be conducted as provided in Title 13."

Section 291. Section 7-2-4105, MCA, is amended to read:

"7-2-4105. Notice of election on question of organization. Notice of the election ~~must be given by publication in some newspaper published within the limits of the territory to be incorporated or, if none be published therein, by posting notice in three public places within said limits~~ shall be published as provided in [section 6]. The notice ~~must be published 30 days prior to the election and must specify the time when and place where the same is to be held and~~ shall contain a description of the boundaries of the city or town."

Section 292. Section 7-2-4106, MCA, is amended to read:

"7-2-4106. First election for officers. (1) When the incorporation of a city or town is completed, the board of county commissioners must give notice for 30 days in a newspaper published within the limits of the city or town or, if none be is published therein, by posting notices in six public places within the limits of the corporation of the time and place or places of holding the first election

for offices of the corporation.

(2) At such election all the electors qualified by the general election laws of the state who have resided within the limits of the city or town for 6 months and within the limits of the ward for 30 days preceding the election are qualified electors and may choose officers for the city or town, to hold office as prescribed in 7-2-4107.

(3) The board must appoint election judges ~~and clerks of election~~ and canvass and declare the result thereof. The election must be conducted in the manner required by law for the election of county officers.

Section 293. Section 7-2-4601, MCA, is amended to read:

"7-2-4601. Annexation by petition. (1) The boundaries of any incorporated city or town, whether heretofore or hereafter formed, may be altered and new territory or territories annexed thereto, incorporated and included therein, and made a part thereof upon proceedings being had and taken as provided in this part.

(2) The council or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory or territories asked to be annexed to ~~such~~ the corporation and signed by not less than 33 1/3% of the ~~resident-freeholder~~ registered electors of the territory proposed to be annexed,

must without delay submit to the electors of ~~such~~ the municipal corporation and to the registered electors residing in the territory or territories proposed by ~~such~~ the petition to be annexed to ~~such~~ the corporation, the question whether ~~such~~ the new territory or territories shall be annexed to, incorporated in, and made a part of ~~said~~ the municipal corporation."

Section 294. Section 7-2-4602, MCA, is amended to read:

"7-2-4602. Election on question of annexation by petition. (1) The question of annexation may be ~~so~~ submitted at the next general municipal election to be held in ~~such~~ the municipal corporation or it may be ~~so~~ submitted prior to ~~such~~ the general election, either at a special election called ~~therein~~ for that purpose or at any other municipal election, ~~thereby~~ except an election at which the submission of such question is prohibited by law.

(2) The election shall be conducted and the returns made in the same manner as other city or town elections. All election laws governing city and town elections shall govern, insofar as they are applicable.

(3) Whenever the question of annexation under this title is submitted at either a general city or town election or at a special election, separate ballots, ~~white in color and of convenient size~~ shall be provided therefor."

Section 295. Section 7-2-4603, MCA, is amended to read:

"7-2-4603. Notice of election. (1) The council or legislative body ~~is hereby empowered and it shall be its duty to cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation at least once a week for a period of 3 successive weeks preceding the date of such election. If there is no newspaper printed in such municipal corporation, then such notice shall be published in like manner for a like period in the nearest town or city in the county in which said territory or territories to be annexed is situated and in which such newspaper is printed~~ shall publish notice of the election as provided in [section 6].

(2) Such notice shall distinctly state the proposition to be submitted, i.e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporation the territory or territories sought to be annexed, specifically describing the boundaries thereof. ~~In said notice the qualified electors of said municipal corporation and the qualified electors residing in said territory or territories so proposed to be annexed shall be invited to vote upon such proposition by placing upon their ballots the words "for annexation" or "against annexation"~~

~~or words equivalent thereto.~~

~~(3) Such council or legislative body is hereby empowered and it shall be its duty to establish and in such~~ The notice of election shall designate ~~the voting precinct or precincts,~~ the date of said the election, ~~the place or places at which and the hours between which the polls will be opened for such election, and such other information regarding said election as the council or legislative body may deem proper. Such place or places shall be that or those commonly used as voting places within such municipal corporation and also that or those commonly used by the electors residing in such new territory or territories."~~

Section 296. Section 7-2-4902, MCA, is amended to read:

"7-2-4902. Disincorporation by election. (1) Any city or town may be disincorporated in the manner hereafter provided.

(2) If the ~~qualified~~ registered electors of a city or town equal in number to 20% of the number of ~~voters~~ electors voting at the last regular municipal election petition the board of county commissioners of the county where the city or town is situated to disincorporate the city or town, the board shall order, within 60 days, that a special election be held within the city or town on the question of disincorporating the city or town. The day for holding the

election shall be not be less than ~~30~~ 60 days or more than ~~60~~ 120 days after the board orders the election."

Section 297. Section 7-2-4903, MCA, is amended to read:

"7-2-4903. Notice of election on question of disincorporation. Notice of the election provided for in 7-2-4902 shall be published ~~once each week for 4 consecutive weeks and shall state that the question of disincorporation of the city or town will be submitted to the qualified electors of the city or town on the designated day~~ as provided in [section 6]."

Section 298. Section 7-2-4904, MCA, is amended to read:

"7-2-4904. Details of election on disincorporation. (1) The election shall be conducted in the same manner as a regular city or town election ~~except that the election officials are appointed by the board of county commissioners~~. The election returns ~~are~~ shall be made ~~to the board~~ and canvassed in the same manner as are general election returns.

(2) The form of the ballot ~~is~~ shall be:

☐ FOR the disincorporation of .... (insert name of city or town)

☐ AGAINST the disincorporation of .... (insert name of city or town)."

Section 299. Section 7-5-132, MCA, is amended to read:

"7-5-132. Procedure to exercise right of initiative or referendum. (1) The electors may initiate and amend ordinances and require submission of existing ordinances to a vote of the people by petition. If submitted prior to the ordinance's effective date, a petition requesting a referendum on the ordinance shall delay the ordinance's effective date until the ordinance is ratified by the electors. A petition requesting a referendum on an emergency ordinance filed within 30 days of its effective date shall suspend the ordinance until ratified by the electors.

(2) The governing body may refer existing or proposed ordinances to a vote of the people by resolution.

(3) A petition or resolution for initiative or referendum shall:

(a) embrace only a single comprehensive subject;

(b) set out fully the ordinance sought by petitioners or, in the case of an amendment, set out fully the ordinance sought to be amended and the proposed amendment or, in the case of referendum, set out the ordinance sought to be repealed; and

(c) be in the form prescribed in Title 13, chapter 27, except as specifically provided in this part; and

~~(c)~~(d) contain the signatures of 15% of the registered electors of the local government."

Section 300. Section 7-5-136, MCA, is amended to read:

"7-5-136. Submission of question to ~~voters~~ electors. (1) Any ordinance proposed by petition or any amended ordinance proposed by petition or any referendum on an ordinance which is entitled to be submitted to the electors shall be voted on at the next regular election to be held in the local government unless:

(a) the petition asks that the question be submitted at a special election and is signed by at least 25% of the electors of the local government, in which case the governing body shall call a special election; or

(b) the governing body calls for a special election on the question.

(2) If the adequacy of the petition is determined by the elections administrator less than 45 days prior to the next regular election, the election shall be delayed until the following regular election unless a special election is called.

(3) Whenever a measure is ready for submission to the electors, the appropriate election ~~official~~ administrator shall in writing notify the governing body and shall publish notice of the election and the ordinance which is to be proposed or amended. In the case of a referendum, the ordinance sought to be repealed shall be published.

(4) The question shall be placed on the ballot, giving

the electors a choice between accepting or rejecting the proposal.

(5) If a majority of those voting favor the proposal, it becomes effective when the election results are officially declared unless otherwise stated in the proposal."

Section 301. Section 7-3-4334, MCA, is amended to read:

"7-3-4334. Procedure to abandon commission-manager form of government. (1) Any municipality which shall have operated for more than 2 years under the provisions of this part and part 44 may abandon ~~such~~ its organization hereunder and accept the provisions of the general law of the state applicable to municipalities of its population.

(2) Upon the petition of ~~not less than 25% of~~ the registered electors of such municipality equal to 25% of the number registered for the last preceding general election, a special election shall be called, at which the following proposition only shall be submitted:

"Shall the (city or town) of (name of city or town) abandon its organization under parts 43 and 44 of chapter 3 of Title 7 and become a (city or town) under the general law governing (cities or towns) of like population or, if formerly organized under special charter, resume said special charter?"

(3) If the majority of the votes cast at ~~such~~ the special election ~~be~~ are in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the general laws of the state for municipalities of like population, and upon the qualification of ~~such~~ the officers, ~~such~~ the municipality shall become a municipality under ~~such~~ the general law of the state, but ~~such~~ the change shall not in any manner or degree affect the property, rights, or liabilities of any nature of ~~such~~ the municipality but shall merely extend to each change in its form of government.

(4) The sufficiency of ~~such~~ the petition shall be determined, the election ordered and conducted, and the results declared as provided for by the provisions of ~~this part and part 44~~ Title 13 insofar as the provisions thereof are applicable. Whenever the form of government of a municipality is determined by a vote of the people under the provisions of this section, the same question ~~shall~~ may not be submitted again for a period of 2 years, and any ordinance adopted by the vote of the people shall not be repealed or the same question submitted for a period of 2 years."

Section 302. Section 7-3-4341, MCA, is amended to read:

"7-3-4341. General provisions relating to elections.

(1) Except as otherwise provided in this part and part ~~44, all electors of municipalities under this part and part 44 who, by ordinances governing cities and towns incorporated under the general municipal incorporation law or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities or towns shall be qualified to vote at all elections under this part or part 44~~ all elections shall be conducted as provided in Title 13.

(2) ~~The ballots to be used at such general municipal elections shall be in the same general form as for such primary election so far as applicable, and in all elections in such municipalities, the election precincts, voting places, method of conducting the elections, canvassing of votes, and announcing the results shall be the same as by law provided for the election of officers in such cities or towns so far as the same are applicable and not inconsistent with the provisions of this part and part 44.~~ Elected officials provided for in this part and part 44 shall be nominated and elected under the provisions of [sections 137 through section 144].

Section 303. Section 7-4-2611, MCA, is amended to read:

"7-4-2611. Role and duties of county clerk. (1) The county clerk of any county is also clerk of the county

commissioners and ex officio recorder. Any duty imposed by law upon such officer, either as county clerk, clerk of the county commissioners, or recorder, shall be performed by the county clerk, and any official act performed or certified by the county clerk shall be as valid and effectual as if performed and certified to by him as clerk of the county commissioners or as recorder.

(2) The county clerk must:

(a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records which may be filed or deposited in his office;

(b) record all the proceedings of the board;

(c) make full entries of all its resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

(d) record the vote of each member on any question upon which there is a division or at the request of any member present;

(e) sign all orders made and warrants issued by order of the board for the payment of money and certify the same to the county treasurer;

(f) record the reports of the county treasurer of the receipts and disbursements of the county;

(g) preserve and file all accounts acted upon by the board;

(h) preserve and file all petitions and applications for franchises and record the action of the board thereon;

(i) record all orders levying taxes;

(j) designate upon every account allowed by the board the amount allowed and deliver to any person who may demand it a certified copy of any record in his office or any account on file therein;

(k) as often as a new township is organized or the boundaries of any township are altered, immediately make out and transmit to the secretary of state a certified statement of the names and boundaries and the boundaries of any township altered;

(l) keep such other record and books and perform such other duties as are prescribed by law or by rule or order of the board.

~~(3)--A county clerk and recorder shall maintain all records and statements filed pursuant to the provisions of title 13 for a period of 10 years from the date of receipt.~~

~~(4)--A county clerk and recorder shall accept and file any information voluntarily supplied that exceeds the requirements of title 13.~~

~~(5)~~(3) A county clerk and recorder shall file, code, and cross-index all reports and statements filed as prescribed by the commissioner of campaign finances and practices.

~~(6)~~(4) A county clerk and recorder shall make statements and other information filed with his office available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed actual cost."

Section 304. Section 7-5-4322, MCA, is amended to read:

"7-5-4322. Election on question of granting franchise. (1) ~~A--notice--of--such-election-must-be-published-at-least once-a-week-for-3-successive-weeks-in--at--least--one--daily newspaper-if-there-be-one-published-in-the-city-or-town-and, if-not,-in-some-weekly-newspaper-of-general-circulation,-and such--notice--must--be--posted-in-three-public-places-in-the city-or-town.~~ Notice of the election shall be published as provided in [section 6]. The notice must state the time and place of holding the election, the character of any ~~such~~ the franchise applied for, and the valuable consideration, if there is any, to be derived by the city.

(2) At such election the ballots must contain the words "For granting franchise" and "Against granting franchise", and in voting, the elector must make a cross (X) opposite the answer he intends to vote for. ~~Such~~ The election must be conducted and canvassed and the return made in the same manner as other city or town elections.

(3) If the majority of the votes cast at the election

be ~~are~~ "For granting franchise", the mayor and city council must thereupon grant the same by the passage and approval of a proper ordinance."

Section 305. Section 7-6-4434, MCA, is amended to read:

"7-6-4434. Notice of election on question of additional mill levy. Where the question of making such additional levy is so submitted, notice thereof shall be given ~~by publication for at least 30 days prior to such election in every newspaper published in said city or town and by posting a like notice for the same period of time in a public place in each ward of said city or town~~ as provided for in [section 6]."

Section 306. Section 7-6-4436, MCA, is amended to read:

"7-6-4436. Conduct of election. (1) ~~The voters shall mark the ballot or ballots in the same manner as other ballots are marked under the election laws of this state.~~

~~(2) The election shall be held and the votes canvassed and returned as in other city or town elections.~~ The election will be conducted as provided by Title 13."

Section 307. Section 7-7-2223, MCA, is amended to read:

"7-7-2223. Petition and election required for issuance of certain bonds. (1) County bonds for any purpose other

than those enumerated in 7-7-2221 and 7-7-2311 ~~shall~~ may not be issued unless authorized at a duly called special or general election at which the question of issuing such bonds is submitted to the ~~qualified~~ registered electors of the county and approved as provided in 7-7-2237.

(2) No such bond election may be called unless the board of county commissioners receives a petition, delivered and certified by the ~~county clerk~~ election administrator, asking that such election be held and such the question be submitted. The petition must be signed by at least 10% of the ~~qualified~~ registered electors of the county. ~~Only persons who are qualified to sign such petitions shall be qualified to circulate the same.~~"

Section 308. Section 7-7-2224, MCA, is amended to read:

"7-7-2224. Form and contents of petition. (1) Every petition for the calling of an election to vote upon the question of issuing county bonds shall plainly and clearly state the purpose or purposes for which the proposed bonds are to be issued and shall contain an estimate of the amount necessary to be issued for such purpose or purposes. There may be a separate petition for each purpose, or two or more purposes may be combined in one petition if each purpose, with an estimate of the amount of bonds necessary to be issued therefor, is separately stated in the petition.

~~(2) Such petition may consist of one sheet or of several sheets, identical in form and fastened together after being circulated and signed so as to form a single complete petition before being delivered to the county clerk.~~

The petition shall be in the form provided in Title 13, chapter 27.

~~(3) The petition shall give the post office address and voting precinct of each person signing the same.~~

~~(4) There shall be attached to the completed petition the affidavit of some person who circulated or assisted in circulating such petition that he believes the signatures thereon are genuine and that the signers knew the content thereof before signing.~~"

Section 309. Section 7-7-2225, MCA, is amended to read:

"7-7-2225. Filing of petition with county clerk — clerk's election administrator certificate. (1) The completed petition shall be filed with the county clerk election administrator. The ~~clerk~~ administrator shall, within 15 days thereafter, carefully examine the petition and the county records showing the qualifications of the petitioners and attach thereto a certificate, under his official signature and the seal of his office.

(2) The certificate shall set forth:

(a) the total number of ~~persons~~ individuals who are

registered electors;

(b) which and how many of the ~~persons~~ individuals whose names are subscribed to the petiton possess all of the qualifications required of signers of such a petition;

(c) whether such qualified signers constitute more or less than 20% of the registered electors of the county."

Section 310. Section 7-7-2226, MCA, is amended to read:

"7-7-2226. Delivery of certified petition to board of county commissioners. (1) After completing the certificate required by 7-7-2225, the ~~county--clerk~~ election administrator shall deliver the certified petition to the board of county commissioners.

(2) When ~~such~~ the petition has been filed with the ~~county-clerk~~ election administrator and he has found that it has a sufficient number of signers qualified to sign ~~the same~~ it, he shall place ~~the-same~~ it before the board at its first meeting held after he has attached his certificate thereto."

Section 311. Section 7-7-2227, MCA, is amended to read:

"7-7-2227. Examination of petition -- resolution calling for election. (1) Upon delivery of the certified petition, the board shall carefully examine the petition and make such other investigation as it may deem consider

necessary. If it is found that the petition is in proper form, bears the requisite number of signers of qualified petitioners, and is in all other respects sufficient, the board shall pass and adopt a resolution.

(2) The resolution shall:

(a) recite the essential facts in regard to the petition and its filing and presentation and the purpose or purposes for which the bonds are proposed to be issued;

(b) fix the exact amount of bonds proposed to be issued for each purpose, which amount may be less than but must not exceed the amount set forth in the petition;

(c) determine the number of years through which such bonds are to be paid, not exceeding the limitations fixed in 7-7-2206; and

(d) make provision for having ~~such~~ the question submitted to the ~~qualified~~ registered electors of the county at the next general election or at a special election which the board may call for ~~such~~ that purpose."

Section 312. Section 7-7-2228, MCA, is amended to read:

"7-7-2228. Time of holding election on question of issuing bonds. The bond election required by 7-7-2203 may not be held any sooner than ~~60~~ 90 days after receipt of the petition by the county commissioners and must be held no later than the first general election following the 60

90-day period."

Section 313. Section 7-7-2229, MCA, is amended to read:

"7-7-2229. Notice of election. (1) Whether such election is held at the general election or at a special election, separate notice shall be given thereof.

(2) (a) ~~Such~~ The notice shall state:

(i) the date when ~~such~~ the election will be held;

(ii) the hours between which the polls will be open;

(iii) the amount of bonds proposed to be issued;

(iv) the purpose of the issue;

(v) the term of years through which the bonds are to be paid; and

(vi) such other information regarding the holding of the election and the bonds proposed to be issued as the board may ~~deem~~ consider proper.

(b) If bonds are to be issued for two or more purposes, each purpose and the amount therefor must be separately stated.

(3) ~~Such~~ The notice ~~shall~~ shall be published as provided in [section 6].

~~(a) shall be posted in each voting precinct throughout the county in the same manner as notices for a general election are required to be posted; and~~

~~(b) must also be published in the official newspaper~~

~~of the county once a week for 4 consecutive weeks preceding the election.~~"

Section 314. Section 7-7-2231, MCA, is amended to read:

"7-7-2231. Indebtedness of electors required to authorize bonds. (1) Whenever the question of issuing county bonds in any amount is submitted to the ~~qualified~~ registered electors of a county at either a general or special election, and such question shall be ~~qualified~~ registered electors entitled to vote on ~~such~~ the question must vote thereon, otherwise, ~~such~~ the proposition shall be ~~deemed~~ considered to have been rejected.

(2) If 2/3 or more of ~~such qualified~~ the registered electors do vote on ~~such~~ the question at ~~such~~ the election and a majority of ~~such~~ the votes shall be cast in favor of ~~such~~ the proposition, then ~~such~~ the proposition shall be ~~deemed~~ considered to have been approved and adopted."

Section 315. Section 7-7-4221, MCA, is amended to read:

"7-7-4221. Election on question of incurring indebtedness — exception. (1) Except as provided in subsection (2), whenever the council or commission of any city or town having a corporate existence in this state or hereafter organized under any of the laws thereof shall ~~deem~~ consider it necessary to issue bonds pledging the general

credit of the municipality for any purpose whatever under its powers as set forth in any statute or statutes of this state or amendments thereto, the question of issuing such bonds shall first be submitted to the registered electors of ~~such~~ the city or town ~~who are qualified to vote on such question~~, in the manner hereinafter set forth.

(2) It shall not be necessary to submit to ~~such~~ the electors the question of issuing refunding bonds to refund bonds theretofore issued and then outstanding or the question of issuing revenue bonds not pledging the general credit of the municipality under any laws of this state.

(3) No bonds shall be issued by a city or town pledging the general credit of the municipality for any purpose except to fund or refund warrants or bonds issued prior to and outstanding on July 1, 1942, as authorized in this section, unless authorized at a duly called special or general election at which the question of issuing such bonds is submitted to the ~~qualified~~ registered electors of the city or town and approved as hereinafter provided."

Section 316. Section 7-7-4226, MCA, is amended to read:

"7-7-4226. Resolution to submit question of issuing bond to voters. (1) When the council or commission of any city or town ~~deems~~ considers it necessary to issue bonds pledging the general credit of the municipality pursuant to

any statute of this state, the council shall pass and adopt a resolution.

(2) The resolution shall:

(a) recite the purpose or purposes for which it is proposed to issue such bond;

(b) fix the amount of bonds to be issued for each purpose;

(c) determine the number of years through which ~~such~~ the bonds are to be paid, not exceeding the limits fixed in 7-7-4201; and

(d) unless ~~such~~ the bonds are revenue bonds not pledging the general credit of the municipality, make such provisions as are necessary for having the question submitted to the ~~qualified~~ registered electors of the city or town at the next general city or town election or at a special election which the council or commission may call for ~~such~~ the purpose.

(3) In cases where the bond issuance is proposed by petition, the council or commission shall, before submitting the measure to the electorate, pass a resolution containing the information herein required and, in addition thereto, setting forth the essential facts in regard to the filing and presentation of the petition."

Section 317. Section 7-7-4227, MCA, is amended to read:

"7-7-4227. Notice of election. (1) Whether such election is held at the general city or town election or at a special election, separate notice shall be given thereof.

(2) (a) ~~Such~~ The notice shall state:

(i) the date when ~~such~~ the election will be held;

(ii) the hours between which the polls will be open;

(iii) the amount of bonds proposed to be issued;

(iv) the purpose thereof;

(v) the term of years through which the bonds will be paid; and

(vi) such other information regarding the election and the proposed bonds as the board may ~~deem~~ consider proper.

(b) If the bonds proposed to be issued are for two or more purposes, each purpose and the amount thereof must be separately stated.

(3) ~~Such~~ The notice shall be:

(a) ~~shall be~~ posted in each voting precinct in the city or town at least 10 days prior to the date for holding ~~such~~ the election; and

(b) ~~must also be published once a week for a period of not less than 2 consecutive weeks immediately preceding the date for holding such election in some newspaper published in the city or town if there be one and if not, then in a newspaper published in the state at a point in the state nearest to the city or town and designated by the city or town council~~ as provided in [section 6]."

Section 318. Section 7-7-4235, MCA, is amended to read:

"7-7-4235. Percentage of ~~voters~~ electors required to authorize the issuing of bonds. (1) Wherever the question of issuing bonds for any purpose is submitted to the ~~qualified~~ registered electors of a city or town at either a general or special election, not less than 40% of the ~~qualified~~ registered electors entitled to vote on ~~such~~ the proposition or question must vote thereon; otherwise, ~~such~~ the proposition shall be ~~deemed~~ considered to have been rejected.

(2) If 40% or more of ~~such~~ the ~~qualified~~ registered electors do vote on ~~such~~ the proposition or question at ~~such~~ the election and a majority of ~~such~~ the votes ~~shall be~~ are cast in favor of ~~such~~ the question or proposition, then ~~such~~ the proposition or question shall be ~~deemed~~ considered to have been adopted and approved."

Section 319. Section 7-13-2210, MCA, is amended to read:

"7-13-2210. Notice of election. (1) The notice of election required by 7-13-2208 shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words ".... ~~county~~ County water and/or sewer district").

(2) This notice shall be published ~~once each week for 2 consecutive weeks in a newspaper printed and published in every county in which said district lies. The first publication shall be made at least 2 weeks before the time at which the election is to be held~~ as provided in [section 6]."

Section 320. Section 7-13-2211, MCA, is amended to read:

"7-13-2211. Conduct of election on question of creating district. (1) The election on the question of creating the district shall be conducted, the vote canvassed, and the result declared in the same manner as provided by ~~law~~ Title 13 in respect to general elections, so far as they ~~may be~~ are applicable, except as otherwise provided in this part and part 23.

(2) At such the election the proposition to be submitted shall be: "Shall the proposition to organize .... county County water and/or sewer district under parts 22 and 23 of chapter 13 of Title 7 be adopted?"

~~(3) Within 4 days after such election, the vote shall be canvassed by the board of commissioners.~~"

Section 321. Section 7-13-2212, MCA, is amended to read:

"7-13-2212. Qualifications to vote on question of creating district. (1) Except as provided in subsection (2), no person individual shall be entitled to vote at any election under the provisions of this part and part 23 unless such person individual possesses all the qualifications required of voters electors under the general election laws of the state and is a resident of the proposed district or the owner of taxable real property located within the county in which he proposes to vote and situated within the boundaries of the proposed district.

(2) ~~A person~~ An individual who is the owner of such real property need not possess the qualifications required of a voter an elector in 13-1-111(1)(c), provided that such voter elector ~~shall be~~ is qualified if he is registered to vote in any state of the United States and files proof of such registration with the election administrator."

Section 322. Section 7-13-2231, MCA, is amended to read:

"7-13-2231. District to be governed by board of directors. (1) At an election to be held within ~~such~~ a district under the provisions of this part and part 23 and the laws governing general elections not inconsistent therewith, the district thus organized shall proceed, within ~~90~~ 120 days after its formation, to the election of a board of directors.

(2) The board of directors ~~shall be~~ is the governing body of such district."

Section 323. Section 7-13-2234, MCA, is amended to read:

"7-13-2234. Term of office. (1) All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors.

(2) The term of office of directors elected under the provisions of this part and part 23 shall be 4 years from and after the date of their election, provided that the directors first elected after ~~March 13, 1957,~~ formation of a new district shall hold office only until the election and qualification of their successors ~~as hereinafter provided~~ at the first regular election which shall be held in November ~~of the next odd-numbered year~~.

(3) The term of office of directors appointed by ~~said~~ the mayor or mayors or by ~~said~~ the board of commissioners shall be 6 years from and after the date of appointment. Directors to be first appointed under the provisions of this part and part 23 shall be appointed within 90 days after the formation of the district."

Section 324. Section 7-13-2236, MCA, is amended to read:

"7-13-2236. General district election. The election of directors of ~~such~~ the district shall be ~~on every fourth year after its organization, on the fourth Tuesday in March, and~~

~~shall be known as the general district election~~ held every 4 years with the election for local government officials provided for in 13-1-104(2)."

Section 325. Section 7-13-2238, MCA, is amended to read:

"7-13-2238. Form of petition. (1) The petition of nomination shall consist of not less than five individual certificates, which shall read substantially as follows:

PETITION OF NOMINATION

Individual Certificate

State of ....

County of ....

Prect. No. .....

I, the undersigned, certify that I do hereby join in a petition for the nomination of ....., whose residence is at .....; for the office of .... of the .... district, to be voted for at the district election to be held in the .... district on the .... day of ....., 19..; and I further certify that I am a ~~qualified~~ registered elector and an owner or lessee of real property within said district or a resident therein and am not at this time a signer of any other petition nominating any other candidate for the above-named office or, in case there are several places to be filled in the above-named office, that I have not signed

more petitions than there are places to be filled in the above-named office; that my residence is at No. ..... street, ..., and that my occupation is ....

(Signed) .....

State of Montana
County of .....

....., being duly sworn, deposes and says that he is the ~~person~~ individual who signed the foregoing certificate and that the statements therein are true and correct.

(Signed) .....

Subscribed and sworn to before me this .... day of ....., 19...

.....
Notary Public

The petition of nomination of which this certificate forms a part shall, if found insufficient, be returned to ....., at ....., Montana.

(2) It shall be the duty of the ~~county clerk~~ election administrator to furnish, upon application, a reasonable number of forms of individual certificates of the above character. If the district lies in more than one county, the ~~county clerk~~ election administrator whose county contains the largest percentage of the territory of ~~said~~ the district shall fulfill this function."

Section 326. Section 7-13-2239, MCA, is amended to read:

"7-13-2239. Details relating to petition certificates. (1) Each certificate must be a separate paper.

(2) All certificates must be of uniform size as determined by the ~~county clerk~~ election administrator.

(3) Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more.

(4) Each certificate shall ~~further~~ contain the name and address of the person to whom the petition is to be returned in case ~~said~~ the petition is found insufficient."

Section 327. Section 7-13-2240, MCA, is amended to read:

"7-13-2240. Qualifications to sign petition. (1) Each signer must be a ~~qualified~~ registered elector owning real property or residing within ~~said~~ the district.

(2) ~~Each~~ No signer ~~must not~~ may at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office or, in case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in ~~such~~ the office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected.

(3) Each signer must verify his certificate and make oath that the same is true, before a notary public."

Section 328. Section 7-13-2241, MCA, is amended to read:

"7-13-2241. Presentation of petition of nomination. (1) A petition of nomination, consisting of not less than five individual certificates for any one candidate, may be presented to the ~~county clerk~~ election administrator not earlier than ~~45~~ 65 days or later than ~~30~~ 50 days before the election. The ~~county clerk~~ election administrator shall endorse thereon the date upon which the petition was presented to him.

(2) If the district lies in more than one county, ~~such~~ the petition for nomination shall be presented to the ~~county clerk~~ election administrator whose county contains the largest percentage of the territory of ~~said~~ the district and ~~said~~ the ~~county clerk~~ election administrator shall fulfill all duties assigned to ~~county clerks~~ election administrators in elections under this part and part 23."

Section 329. Section 7-13-2242, MCA, is amended to read:

"7-13-2242. Examination of petition. (1) When a petition of nomination is presented for filing to the ~~county clerk~~ election administrator, he shall ~~forthwith~~ examine the same and ascertain whether or not it conforms to the

provisions of 7-13-2237 through 7-13-2247. If found not to conform thereto, he shall ~~then and there~~ in writing designate on said the petition the defect or omission or reason why ~~such~~ the petition cannot be filed and shall return the petition to the ~~person~~ individual named as the ~~person~~ individual to ~~whom the same~~ it may be returned in accordance with 7-13-2240.

(2) The petition may then be amended and again presented to the ~~clerk~~ administrator as in the first instance but in no case may a petition be presented later than 50 days before the election. The ~~clerk~~ administrator shall ~~forthwith~~ proceed to examine the petition as hereinbefore provided."

Section 330. Section 7-13-2243, MCA, is amended to read:

"7-13-2243. Assistance for ~~county clerk~~ election administrator. If necessary, the board of commissioners shall provide extra help to enable the ~~clerk~~ election administrator to perform satisfactorily and promptly the duties imposed by 7-13-2235 through 7-13-2253."

Section 331. Section 7-13-2244, MCA, is amended to read:

"7-13-2244. Filing of petitions. (1) If either the original or amended petition of nomination ~~be~~ is found sufficiently signed as hereinbefore provided, the ~~clerk~~

election administrator shall file ~~the same it 25 days before the date of the election.~~

(2) When a petition of nomination ~~shall have~~ has been filed by the ~~clerk~~ election administrator, it ~~shall~~ may not be withdrawn or added to, and no signatures ~~shall~~ may be revoked thereafter."

Section 332. Section 7-13-2246, MCA, is amended to read:

"7-13-2246. Withdrawal of candidacy. (1) Any ~~person~~ individual whose name has been presented under 7-13-2235 through 7-13-2248 as a candidate may, not later than ~~25~~ 30 days before the day of election, cause his name to be withdrawn from nomination by filing with the ~~county clerk~~ election administrator a request therefor in writing, and no name so withdrawn ~~shall~~ may be printed upon the ballot.

(2) If, upon such withdrawal, the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions therefor not later than ~~25~~ 30 days prior to ~~such~~ the election."

Section 333. Section 7-13-2261, MCA, is amended to read:

"7-13-2261. Recall of officers. Every incumbent of an elective office, whether elected by popular vote for a full term or elected by the board of directors to fill a vacancy or appointed by a mayor or ~~by said~~ board of commissioners

for a full term, is subject to recall by the ~~voters~~ electors of any district organized under the provisions of this part and part 23 in accordance with ~~the recall provisions applicable to officers under the commissioner manager plan~~ Title 2, chapter 16, part 6."

Section 334. Section 7-13-2323, MCA, is amended to read:

"7-13-2323. Election on question of incurring bonded indebtedness. ~~(1)~~ The board of directors shall fix a date upon which an election shall be held for the purpose of authorizing ~~said~~ the bonded indebtedness to be incurred. ~~It shall be the duty of the board to provide for holding such special election on the day so fixed, in accordance with the general election laws of the state so far as the same shall be applicable, except as otherwise provided in this part and part 22.~~

~~(2) The officers selected to conduct the election shall consist of one judge, one inspector, and two clerks in each precinct.~~

~~(3) All the expenses of holding such election shall be borne by the district.~~"

Section 335. Section 7-13-2324, MCA, is amended to read:

"7-13-2324. Notice of election on incurring bonded indebtedness. (1) Such The board of directors shall give

notice of the holding of ~~such~~ the election. The notice shall contain the resolution adopted by the board of directors of the district, boundaries of voting precincts, which shall include ~~therein~~ only the lands to be benefited as stated in ~~such~~ the resolution, and the location of polling places~~, and the names of the officers selected to conduct the election~~.

~~(2) Such~~ The notice shall be published ~~once each week for 2 consecutive weeks in a newspaper published in each county wherein such district is located. The newspaper or newspapers shall be designated by the board~~ as provided in [section 6]."

Section 336. Section 7-13-2325, MCA, is amended to read:

"7-13-2325. Qualifications to vote on question of incurring bonded indebtedness. Every ~~qualified~~ registered elector owning or residing upon real property within such voting precincts, but no others, shall be entitled to vote at ~~such~~ the election."

Section 337. Section 7-13-2328, MCA, is amended to read:

"7-13-2328. Sufficient vote required to issue bonds. If from such returns it appears that 50% or more of the votes cast on the question at such election were in favor of and assented to the incurring of such indebtedness, then the board of directors may by resolution, at such time or times

as it ~~deems~~ considers proper, provide for the form and ~~execution of such~~ the bonds and for the issuance of any part thereof."

Section 338. Section 7-14-203, MCA, is amended to read:

"7-14-203. Petition to create urban transportation district. Proceedings for creation of a transportation district may be initiated by a petition signed by not less than 20% of the ~~qualified~~ registered electors who reside within the proposed district."

Section 339. Section 7-14-204, MCA, is amended to read:

"7-14-204. Details relating to petition. (1) ~~The petition shall consist of one sheet or several sheets identical in form and fastened together, after being circulated and signed so as to form a single complete petition before being delivered to the county clerk.~~

~~(2)~~ The petition ~~shall give the address of each petitioner and~~ shall include a map showing the limits of the proposed district and shall be in the form provided in Title 13, chapter 27."

Section 340. Section 7-14-205, MCA, is amended to read:

"7-14-205. Petition to be filed with ~~county clerk — clerk's~~ election administrator certificate. (1) The complete

petition shall be filed with the ~~county--clerk~~ election administrator.

(2) The ~~county--clerk~~ election administrator shall, within 30 days thereafter, carefully examine the ~~same~~ petition and attach to it a certificate under his official signature and the seal of his office. The certificate shall set forth:

(a) the total number of ~~persons~~ individuals who are registered electors within the proposed transportation district; and

(b) which and how many of the ~~persons~~ individuals whose names are on the petitions are qualified to sign ~~such~~ the petition."

Section 341. Section 7-14-206, MCA, is amended to read:

"7-14-206. Effect of insufficient number of signatures. If the petition is found to contain less than 20% of the signatures of the ~~qualified~~ registered electors of the transportation district, the petition shall be declared void."

Section 342. Section 7-14-211, MCA, is amended to read:

"7-14-211. Conduct of election on question of creating district. (1) The election shall be held in all respects, as nearly as practicable, in conformity with the general

election laws.

(2) At the election, the ballots shall contain the words:

☐ Transportation ~~District~~ district -- Yes

☐ Transportation ~~District~~ district -- No

~~(3)--The judges of the election shall--certify--to--the commissioners the results of the election.~~"

Section 343. Section 7-14-214, MCA, is amended to read:

"7-14-214. Election of members of transportation board. (1) Any ~~qualified~~ registered elector in the district may file a petition of candidacy with the ~~county--clerk--and recorder~~ election administrator of the county where the district is located. No filing fee shall be required. All candidates shall file a nonpartisan petition for candidacy as provided in [section 139].

(2) The names of the six candidates receiving the highest number of votes in the primary election shall be placed on the ballots in the county general election."

Section 344. Section 7-15-4408, MCA, is amended to read:

"7-15-4408. Voter approval required to create housing authority. The ordinance authorized by 7-15-4406(1) shall not be effective until it has been approved by a majority vote of the registered electors within the city limits

voting at either a special or general election."

Section 345. Section 7-34-2110, MCA, is amended to read:

"7-34-2110. Resolution calling for election. (1) ~~Said~~ The board in its resolution of reference may make such changes in the boundaries of the proposed district as it ~~may deem~~ considers advisable, without~~, however,~~ including any additional lands not described in the petition, and it shall call an election upon the question of the creation of the district.

(2) The board must designate in its resolution whether a special election shall be held or whether the matter shall be determined at the next general election. If a special election is ordered, the board must specify in its order the date for such election~~, and the voting places, and shall appoint and designate judges and clerks therefor~~."

Section 346. Section 7-34-2112, MCA, is amended to read:

"7-34-2112. Conduct of election on question of creating district. (1) The election shall be held in all respects, as nearly as practicable, in conformity with the general election laws. ~~If a special election is held, the polls shall be open from 8 a.m. to 6 p.m. on the day appointed for such election.~~

(2) At ~~such~~ the election, the ballots must contain the

words "Hospital ~~District, YES~~ district -- Yes" and "Hospital ~~District, NO~~ district -- No".

~~(3) The judges of the election shall certify to the board of county commissioners the results of said election.~~"

Section 347. Section 7-34-2116, MCA, is amended to read:

"7-34-2116. Election of first board of trustees. (1) The first board of trustees shall be elected at the same election held upon the creation of the district, subject to the creation thereof, and shall qualify upon the organization of the district, if created.

(2) The trustees may be nominated and have their names appear upon the ballots ~~upon the filing with the board of county commissioners of a petition signed by any five qualified electors of the district. Any elector may sign as many nominating petitions as there are persons to be elected~~ as provided in [section 139].

Section 348. Section 7-34-2117, MCA, is amended to read:

"7-34-2117. Procedure for the conduct of election for trustees. (1) All elections and nominations for election of trustees following the election of the first board of trustees shall be conducted ~~by said qualified voters in the same manner as provided by the laws of Montana for the election of school trustees of a second or third class~~

~~school--district--provided--that--wherever--in--the-laws-of Montana--it--is--provided--that--certain--actions--shall--be performed--or--filings--made--with--the--clerk-of-the-school board-the-trustees-or-the-board-of-trustees-of--the--school district--or-the-county-superintendent-of-schools-the-same shall-for-the-purposes-of-this-part-be-taken-to--refer--to the--clerk--of--the-board-of-trustees-of-the-public-hospital district-the-trustees-or--the--board--of--trustees--of--the public--hospital-district-or-the-county-clerk-respectively~~ at the time and in the manner provided by Title 13.

(2) If there is no nomination petition filed, it shall not be necessary to hold an election but the board of county commissioners shall appoint a trustee to fill the term, the term to be the same as if the trustee were elected."

Section 349. Section 7-34-2414, MCA, is amended to read:

"7-34-2414. Election required on question of issuance of bonds. (1) No ~~such~~ bonds may be issued by any county until the question of approval of the issuance of such bonds has been submitted to the ~~qualified~~ registered electors of the county at a general election or a special election called for that purpose by the governing body of the county and the majority of the electors voting on the question have voted in favor thereof. The notice and conduct of the election shall be governed, to the extent applicable, by

7-7-2229 through 7-7-2231, 7-7-2233, and 7-7-2234.

(2) If a majority of the electors voting thereon vote against the issuance of ~~such~~ the bonds, the county shall have no authority to issue ~~such~~ the bonds under 7-34-2411 through 7-34-2418."

Section 350. Section 7-35-2106, MCA, is amended to read:

"7-35-2106. Election details. (1) In its order the board must designate whether ~~or not~~ a special election shall be held or whether the matter shall be determined at the next general election. If a special election is ordered, the board must in its order specify the ~~time and place for such election and the voting place and shall in said order appoint and designate judges and clerks therefor.~~

(2) The election shall be held in all respects, as nearly as practicable, in conformity with the general election laws. ~~The polls shall be open from 8 a.m. to 6 p.m. on the day appointed for such election.~~

(3) At such election, the ballots must contain the words "Cemetery ~~District~~ district -- Yes" and "Cemetery ~~District~~ district -- No".

~~(4) The judges of the election shall certify to the board of county commissioners the results of said election.~~"

Section 351. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of ~~joint~~ costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment and give notice of teacher certification suspension or revocation proceedings to be conducted by the board of public education in accordance with the provisions of the teacher certification part of this title;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

~~(5) prescribe absentee voting forms and rules in accordance with the provisions of 20-20-104;~~

~~(6)~~(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

~~(7)~~(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

~~(8)~~(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

~~(9)~~(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-505;

~~(10)~~(9) establish a system of communication for calculating joint district revenues in accordance with the provisions of 20-9-151;

~~(11)~~(10) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed in 20-9-163 and publish rules for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of 20-9-166;

~~(12)~~(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

~~(13)~~(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

~~(14)~~(13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

~~(15)~~(14) distribute state equalization aid in support of the foundation program in accordance with the provisions of 20-9-342, 20-9-346, and 20-9-347;

~~(16)~~(15) estimate the statewide equalization level for the foundation program in accordance with the provisions of 20-9-348;

~~(17)~~(16) distribute state impact aid in accordance with the provisions of 20-9-304;

~~(18)~~(17) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

~~(19)~~(18) approve or disapprove an adult education program for which a district proposes to levy a tax in accordance with the provisions of 20-7-705;

~~(20)~~(19) request, accept, deposit, and expend federal moneys in accordance with the provisions of 20-9-603;

~~(21)~~(20) authorize the use of federal moneys for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

~~(22)~~(21) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

~~(23)~~(22) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

~~(24)~~(23) recommend standards of accreditation for all schools to the board of public education and evaluate compliance with such standards and recommend accreditation status of every school to the board of public education in accordance with the provisions of 20-7-101 and 20-7-102;

~~(25)~~(24) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

~~(26)~~(25) establish and maintain a library of visual, aural, and other educational media in accordance with the provisions of 20-7-201;

~~(27)~~(26) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

~~(28)~~(27) administer and perform the duties as the executive officer of the board of public education for vocational education in accordance with the provisions of 20-7-302;

~~(29)~~(28) consider applications for the designation of a postsecondary vocational-technical center in accordance with the provisions of 20-7-311;

~~(30)~~(29) establish a fund for the handling of postsecondary vocational-technical center fees in accordance with the provisions of 20-7-333;

~~(31)~~(30) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

~~(32)~~(31) administer the traffic education program in accordance with the provisions of 20-7-502;

~~(33)~~(32) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202, and 20-10-203;

~~(34)~~(33) review school building plans and specifications in accordance with the provisions of 20-6-622;

~~(35)~~(34) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408; and

~~(36)~~(35) perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education."

Section 352. Section 20-3-306, MCA, is amended to read:

"20-3-306. Conduct of election--and--ballot. ~~(1)~~ The trustees of each district shall call a trustee election on the regular school election day of each school fiscal year

under the provisions of 20-20-201, except as provided in 20-3-344. The trustees shall call and conduct the trustee election in the manner prescribed in this title for school elections and Title 13. Any elector qualified to vote under the provisions of 20-20-301 may vote at a trustee election.

~~(2) The trustee election ballots shall be substantially in the following form:~~

~~OFFICIAL BALLOT~~

~~SCHOOL TRUSTEE ELECTION~~

~~INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the name of the candidate for whom you wish to vote.~~

~~Vote for (indicate number to be elected) for a 3-year term:~~

~~[ ] (list the names of the candidates for a 3-year term with a vacant square in front of each name)~~

~~Vote for (indicate number to be elected) for a 2-year term:~~

~~[ ] (list the names of the candidates for a 2-year term with a vacant square in front of each name)~~

~~Vote for (indicate number to be elected) for a 1-year term:~~

~~[ ] (list the names of the candidates for a 1-year term with a vacant square in front of each name)~~

~~(3) In preparing the ballots, only those portions of~~

~~the prescribed ballot that are applicable to the election to be conducted need to be used. The ballot also shall be prepared with blank lines and vacant squares in front of the lines in a sufficient number to allow write-in voting for each trustee position that is subject to election.~~

~~(4) When additional trustees in a high school district are to be elected, a separate ballot shall be used in each nominating district showing only the names of those candidates for which the electors of such district are entitled to vote.~~"

Section 353. Section 20-3-304, MCA, is amended to read:

"20-3-304. Annual election. In each district an election of trustees shall be conducted annually on the regular school election day, the first Tuesday of April. Election of trustees shall comply with the election provisions of Title 13 and this title."

Section 354. Section 20-9-424, MCA, is amended to read:

"20-9-424. Validation of petition and ~~--~~ county ~~registrar's~~ election administrator's certificate. (1) The petitioners for a school district bond election shall submit their petition to the county ~~registrar~~ election administrator of the county where the school district is located for validation of the signatures on the petition.

The county ~~registrar~~ election administrator shall examine the petition and ~~shall~~ attach or endorse thereon a certificate which shall state:

(a) the total number of electors of the school district who are, at the time, qualified to vote under the provisions of 20-20-301;

(b) which and how many of the ~~persons~~ individuals whose names are subscribed to the petition possess the qualifications to vote on a bond proposition; and

(c) whether the number of qualified signers established in subsection (1)(b) is more or less than 20% of the total number of ~~qualified~~ registered electors established in subsection (1)(a).

(2) After completing the examination, the county ~~registrar~~ election administrator shall immediately send the petition and his certificate to the school district. The county ~~registrar~~ election administrator shall not receive compensation for the examination of school district bond petitions."

Section 355. Section 20-20-102, MCA, is amended to read:

"20-20-102. Precedence of school election provisions. ~~Unless specifically identified in any section of the election laws prescribed in Title 13, school elections shall be governed by the provisions of this title.~~ Except as

otherwise provided in this title, school elections shall be conducted and canvassed and the results shall be returned in the same manner as provided for general elections in Title 13. Should there be a conflict between the requirements of Title 13 and the provisions of this title regulating school elections, the provisions of this title shall govern. The superintendent of public instruction may make any necessary rules to clarify Title 13 provisions for use in school elections."

Section 356. Section 20-20-104, MCA, is amended to read:

"20-20-104. Forms ~~and--rulemaking~~. The ~~superintendent of public instruction shall prepare the form of--application for--absentee--ballots--and other~~ forms necessary for school district elections ~~and may make necessary rules to carry out the purpose of Title 13, chapter 13, part 2, as it--pertains to--school--districts,~~ shall be the same as those prescribed by law or the secretary of state. The superintendent of public instruction may issue prescribed forms for school elections with any necessary revisions of prescribed or statutory forms."

Section 357. Section 20-20-106, MCA, is amended to read:

"20-20-106. Poll hours. (1) The polls for any school election in any district shall open not later than 1 noon.

The trustees may order the polls to open earlier, but no earlier than 8 a.m. ~~However, the polls shall open at 8 a.m. if~~

~~(2)~~ (2) If the school election is held on the same day, ~~at the same polling places, and with the same judges and clerks~~ as a general, primary, ~~county or city~~ or special election for another political subdivision, the polls shall be opened and closed at the times required for that election.

~~(2)~~(3) Once opened, the polls shall be kept open continuously until 8 p.m., except that whenever all the registered electors at any poll have voted, the poll shall be closed immediately."

Section 358. Section 20-20-201, MCA, is amended to read:

"20-20-201. Calling of school election. (1) At least ~~35~~ 40 days before any school election, the trustees of any district shall call such school election by resolution, stating the date and purpose of such election, and shall conduct it in accordance with the procedures required by law, when:

(a) an election must be held on the regular school election day;

(b) in their discretion, ~~such~~ the trustees order an election for a purpose authorized by law;

(c) the county superintendent orders an election in

accordance with the law authorizing such an order;

(d) the board of public education orders an election in accordance with the law authorizing such an order;

(e) the county commissioners order an election in accordance with the law authorizing such an order;

(f) the board of trustees of a community college district orders an election in accordance with the law authorizing such an order (in which case the community college district shall bear its share of the cost of such election); or

(g) a school election is required by law under any other circumstances.

(2) The resolution calling any school election shall be transmitted ~~immediately~~ to the county ~~registrar~~ election administrator no later than 35 days before the election in order to enable him to close the registration and prepare the lists of registered electors as required by school election laws."

Section 359. Section 20-20-203, MCA, is amended to read:

"20-20-203. Resolution for poll hours, polling places, and judges~~, and ballot format~~. (1) At the trustee meeting when a school election is called, the trustees shall:

(a) except as provided in 20-20-106(2), establish the time at which the polls are to open if, in their discretion, they determine that the polls shall be open before 12 noon;

(b) establish the polling places for such election, using the established polling places for general elections within the district wherever possible;

(c) appoint, from among the qualified electors of the district, at least three judges for each polling place for such election and notify each judge of such appointment not less than 10 days before the election.

~~(d) establish the format of the ballot for the election unless the ballot format is specified by the law which authorizes the election.~~

(2) There shall be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place, and such trustee-defined polling place boundaries shall be coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling place shall be included in the notice for such election."

Section 360. 20-20-204, MCA, is amended to read:

"20-20-204. Election notice. (1) When the trustees of any district call a school election, they shall give notice

of the election not less than 20 days or more than 30 days before the day of the election by posting notices in three public places in the district, provided that in incorporated cities and towns at least one notice shall be posted at a public place in each ward or precinct. Whenever, in the judgment of the trustees, the best interest of the district will be served by the supplemental publication of the school election notice in a newspaper or by a radio or television broadcast, the trustees may cause such notification to be made.

(2) The notice of a school election, unless otherwise required by law, shall specify:

(a) the date and polling places of the election;

(b) the hours the polling places will be open;

(c) each proposition to be considered by the electorate; and

(d) if there are trustees to be elected, the number of positions subject to election and the length of term of each position; and

(e) where and how absentee ballots may be obtained.

(3) If more than one proposition is to be considered at the same school election, each proposition ~~shall~~ must be set apart and separately identified in the same notice or published in separate notices."

Section 361. Section 20-20-301, MCA, is amended to

read:

"20-20-301. Qualifications of elector. ~~(1) Except as provided in subsections (2) and (3), each person~~ An individual is entitled to vote at school elections if he has ~~all of the following~~ the qualifications set forth in 13-1-111 and is a resident of the school district.

~~(a) He has registered to vote with the county registrar as a resident in the school district in which he resides and proposes to vote in the manner provided by the general state election laws, except in regard to the closure of elector registration as provided in 20-20-311.~~

~~(b) He is 18 years of age or older.~~

~~(c) He has been a resident of Montana for at least 30 days.~~

~~(d) He is a citizen of the United States.~~

~~(2) No person convicted of a felony has the right to vote while he is serving a sentence in a penal institution.~~

~~(3) No person adjudicated to be mentally incompetent has the right to vote unless he has been restored to capacity as provided by law.~~"

Section 362. Section 20-20-312, MCA, is amended to read:

"20-20-312. Listing of registered electors. After closing registration, the county ~~registrar~~ election administrator shall prepare a list of registered electors

for each polling place established by the trustees. The list for each polling place shall be prepared in the format of a precinct register book."

Section 363. Section 20-20-313, MCA, is amended to read:

"20-20-313. Delivery and charge for lists of registered electors. Before the day of the election, the ~~registrar~~ election administrator shall deliver a certified copy of the lists of registered electors for each polling place to the district. The district shall deliver them to the election judges prior to the opening of the polls. ~~A charge of 3 cents per name shall be paid by the district to the county for preparing the lists of registered electors.~~ The district shall reimburse the county for the actual costs of preparing the lists of registered electors."

Section 364. Section 20-20-401, MCA, is amended to read:

"20-20-401. ~~General supervision and supplies~~ Trustees' election duties -- ballot certification. (1) The trustees are the general supervisors of school elections.

(2) Not less than 20 days before an election, the trustees shall certify the names of all candidates entitled to be on the ballot and the official wording for each ballot issue to the clerk of the district, who shall arrange for printing the ballots. Names of candidates on school election

ballots need not be rotated.

(3) ~~They~~ The trustees are authorized to and shall administer oaths to election judges.

(4) Before the opening of the polls, the trustees shall cause ~~the judges and~~ each polling place to be supplied with: the ballots and supplies necessary to conduct the election.

~~(1) a sufficient number of ballots for each proposition election or trustee election to be conducted;~~

~~(2) at least six cards instructing electors in the process of how to vote;~~

~~(3) a list of electors prepared in the format of a precinct register book;~~

~~(4) a pollbook for the poll list;~~

~~(5) tally sheets;~~

~~(6) a sufficient number of booths, each provided with a door or a curtain to screen the voter from view and furnished adequately to enable the voter to prepare his ballot;~~

~~(7) ballot boxes or canvas pouches with a lock and key; and~~

~~(8) any other supplies necessary for the proper conduct of the election.~~"

Section 365. Section 20-20-411, MCA, is amended to read:

"20-20-411. Conduct of election. Election judges shall conduct school elections in a manner that ensures a fair and unbiased determination of the matters put before the electorate and see that each elector has an adequate opportunity to cast his vote. ~~To that end, election judges shall:~~

~~(1) post at least one instruction card in each voting booth and not less than three such cards elsewhere about the polling place;~~

~~(2) proclaim the opening and closing of the polls;~~

~~(3) ensure that no more than one person occupies a voting booth at one time and that no person occupies a booth longer than is reasonably necessary;~~

~~(4) enforce the rules against certain prohibited conduct as provided in 13-13-110;~~

~~(5) aid a disabled elector in marking his ballot in the manner provided by 13-13-108; and~~

~~(6) follow the remaining provisions of chapter 13, part 1, and chapter 35 of Title 13, regulating the conduct of elections, except that no deviation from those regulations shall vitiate the election so long as it can reasonably be concluded that neither the outcome of the election nor any individual elector was prejudiced by such deviation.~~"

Section 366. Section 20-20-415, MCA, is amended to

read:

"20-20-415. Trustees to canvass votes. At the first regular or special meeting of the trustees conducted after the receipt of the certified tally sheets of any school election from all the polls of the district, the trustees shall canvass the vote. ~~Such canvass shall include a redetermination of the total votes cast for each person for trustee or the total votes cast "for" and "against" each proposition, as shown on the tally sheet or sheets.~~"

Section 367. Section 20-20-416, MCA, is amended to read:

"20-20-416. Certificate of election. After the ~~redetermination~~ canvass of the total votes cast, the trustees shall issue a certificate of election. In the case of a trustee election, the certificate shall be issued to the elected trustee and the county superintendent designating the term of the trustee position to which he has been elected. In the case of an election on a proposition, the trustees shall issue a certificate specifying the outcome of the election. The certificate shall be issued to ~~that~~ the official or public body which ordered the election within 15 days after the election. When the election has been ordered by resolution of the trustees, the canvassed results shall be published immediately in a newspaper that will give notice to the largest number of people of the

district."

Section 368. Section 20-20-421, MCA, is amended to read:

"20-20-421. Voting machines and electronic voting systems. Whenever voting machines or electronic voting systems are available to a district, such voting devices may be used for a school election. Any district that uses a voting machine or an electronic voting system shall do so in accordance with the provisions of chapters 17 or 18 of Title 13. In construing the provisions of those chapters, the "county ~~commissioners~~ governing body" and the "~~registrar~~ election administrator" shall, for the purposes of this section, be considered to refer to trustees, and "county" shall be considered to refer to district."

Section 369. Section 76-15-303, MCA, is amended to read:

"76-15-303. General election. (1) All qualified electors within the district are eligible to vote in the election.

(2) The three candidates who receive the largest number, respectively, of the votes cast in the election are the elected supervisors for the district.

(3) In the general election, the names of all ~~persons~~ individuals nominated by petition (if six or fewer) or by election shall be printed, arranged in a rotating order of

the surnames, as provided under 13-17-205, upon ballots, with a square before each name and a direction to insert an "X" mark in the square before any three names to indicate the ~~voter's~~ elector's preference.

(4) The ~~registrar~~ election administrator in each county shall prepare suitable nonpartisan ballots ~~and polling lists~~ or place the names of candidates on the regular general election ballot in the same manner as other nonpartisan candidates for the election of supervisors, which ballots ~~and polling lists~~ shall be delivered to the election judges in those precincts which contain ~~eligible voters~~ registered electors prior to each general election and each primary election in which more than four candidates are nominated. The election judges~~, and clerks~~, and other election officials in such precincts shall submit such ballots to qualified electors, conduct the election, and tabulate the results of such election in the manner provided ~~for by the general election laws of the state~~ in Title 13."

Section 370. Section 85-7-1702, MCA, is amended to read:

"85-7-1702. Regular election -- term of office. The regular election for commissioners in each district shall be held annually ~~on the first Tuesday in April of each year~~ in accordance with 13-1-104, and within 40 days following their election the commissioners shall meet and organize as a

board by electing a president from their number and a secretary, who may or may not be a commissioner, and who shall each hold office during the pleasure of the board. The term of office of each commissioner shall begin on the date of the organizational meeting after the regular election and shall continue for 3 years and until the election and qualification of his successor. Commissioners are elected by the electors of the entire district."

Section 371. Section 85-7-1710, MCA, is amended to read:

"85-7-1710. Qualification of electors and nature of voting rights. (1) At all elections held under the provisions of this part, except as otherwise expressly provided, the following holders of title or evidence of title to lands within the district, herein designated electors, are entitled to vote:

(a) all ~~persons~~ individuals having the qualifications of electors under the constitution and general and school laws of the state;

(b) guardians, executors, administrators, and trustees residing in the state;

(c) domestic corporations, by their duly authorized agents.

(2) In all elections held under this part, each elector is permitted to cast one vote for each 40 acres of

irrigable land or major fraction thereof owned by the elector within the district, irrespective of the location of the irrigable lands within the tracts designated by the commissioners for assessment and taxation purposes or within congressional subdivisions, platted lots or blocks (except as hereinafter provided for), election precincts, or district divisions, but any elector owning any less than 40 acres of irrigable land is entitled to one vote. Until the irrigable area under the proposed plan of reclamation is determined, all land included within the boundaries of the district shall be considered irrigable land for election purposes.

(3) Whenever land is owned by co-owners, the owners may designate one of their number or an agent to cast the vote for the owners, and one vote only for each 40 acres of irrigable land or major fraction thereof may be cast by the voting co-owner or agent. Whenever land is under contract of sale to a purchaser residing within the state, the purchaser may vote on behalf of the owner of the land. When voting, the agent of a corporation or co-owners, the co-owner designated for purpose of voting, or the purchaser of land under contract of sale, as the case may be, shall file with the secretary of the district or with the election officials a written instrument of his authority, executed and acknowledged by the proper officers of the corporation, by

the co-owners, or by the owner of land under contract of sale, as the case may be, and thereupon the agent or co-owner or purchaser, as the case may be, is an elector within the meaning of this part. Whenever the total irrigable acreage within any one district has been platted or subdivided into lots or blocks to the extent of 5% or more of the total acreage of the district, each elector is permitted to cast one vote for each acre of irrigable land or major fraction thereof owned by the elector within the district, irrespective of the location of such irrigable lands within the tracts designated by the commissioners for assessment and taxation purposes or within the congressional subdivisions, but any elector owning any less than 1 acre of irrigable land within the district is entitled to one vote. The balloting shall take place in the following manner: 10 votes or less, separate ballots will be used; more than 10 votes, the elector shall vote in blocks of 10 using one ballot for each 10 votes and separate ballots for odd votes over multiples of 10. The election shall otherwise conform with the provisions of ~~85-7-1707~~ Title 13. ~~The--chairman--of the--commissioners--or--such-commissioner-as-he-may-delegate shall-determine-before-each-election-whether-the--provisions of--this--subsection--are-in-force-or-whether-the-provisions heretofore-set-out-shall-apply.~~"

Section 372. Section 85-7-1712, MCA, is amended to

read:

"85-7-1712. Special elections. The board of commissioners may at any time call a special election and submit to the qualified electors of the district any question which under the provisions of this chapter is required or which, in the judgment of the board, is proper to be submitted to popular vote. Such election shall be called, noticed, and conducted and the result thereof determined and declared in the manner provided in ~~this--part relative--to--general-district-elections;-provided,-however, that-the-notice-thereof shall,-in-addition-to-being--posted, also-be-published-at-least-once,-not-less-than-10-days-prior to--the-date-of-the-election,-in-some-newspaper-published-in the-county-in-which-the-office-of-the-board-of-commissioners of-the-district-is-located~~ Title 13."

Section 373. Section 85-9-206, MCA, is amended to read:

"85-9-206. Court hearing on petition -- election -- limits on court jurisdiction. (1) Upon receipt of a petition for organizing a district, the court shall give notice and hold a hearing on the petition. If the court shall find that the prayer of the petition should be granted, it shall:

(a) make and file findings of fact specifying those lands that will be directly or indirectly benefited by the proposed district and exclude those lands which will not be

so benefited;

(b) make an order fixing the time and place of an organizing election;

~~(c) give notice of an election in the way provided in 85-9-103(9);~~

~~(d) provide for election judges and fix their compensation;~~

~~(e) fix the polling place or places as necessary;~~

~~(f)~~(c) order the ~~county clerk~~ election administrator to ~~provide pollbooks, ballots, poll lists, and other necessary election supplies~~ conduct the election in accordance with the provisions of Title 13;

~~(g) provide for canvassing the results;~~

~~(h) declare the results;~~

~~(i)~~(d) order and decree the district organized if the requisite number of eligible electors vote in favor of organization.

(2) In order for the district to be organized, 51% or more of the eligible electors must vote in the election, and a majority of those voting must vote in favor of organization.

(3) This chapter shall not confer upon the court jurisdiction to hear, adjudicate, and settle questions concerning the priority of appropriation of water between districts and other persons. Jurisdiction to hear and

determine priority of appropriation and questions of right growing out of or in any way connected with a priority of appropriation is expressly excluded from this chapter and shall be determined as otherwise provided by the laws of Montana."

Section 374. Section 85-9-422, MCA, is amended to read:

"85-9-422. Election procedures. The ~~Election~~ election procedures after organization ~~are the following:~~ will conform to the requirements of Title 13.

~~(1) The directors shall designate the polling places, at least one in each county, and hours when the polls will be open.~~

~~(2) Notice shall be published of the location of polling places and hours when the polls are open as provided in 85-9-103(9).~~

~~(3) The directors shall appoint three judges for each polling place and fix their compensation.~~

~~(4) The judges shall appoint one of their number as clerk of the election.~~

~~(5) The clerk and recorders of the counties in which the election is to be held shall supply poll lists, registers, ballots, and other necessary election supplies.~~

~~(6) The judges shall cause the ballots to be counted and certify the results to the directors.~~

~~(7)--The directors shall canvass the returns.~~

~~(8)--The directors shall reimburse the counties for actual expenses incurred in the election."~~

Section 375. Transition schedule. (1) Elected officials holding offices to be elected in odd-numbered years and holding office on the date this law becomes effective shall continue in office and in the performance of their duties until the next election as specified in 13-1-104 and subsection (2) or (3) of this section.

(2) Elections required by 13-1-104 for odd-numbered years shall be held beginning in 1981.

(3) Elections required by 13-1-104 for even-numbered years shall be held beginning in 1980.

(4) Notwithstanding any other provision of state law, all elected officers holding office on the date this law becomes effective shall hold their respective offices until new successors are elected and qualified.

Section 376. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 377. Codification. (1) Section 3, section 6, and sections 11 through 18 are intended to be codified as an

integral part of Title 13, chapter 1.

(2) Sections 25 and 30 are intended to be codified as an integral part of Title 13, chapter 2.

(3) Sections 53 and 62 are intended to be codified as an integral part of Title 13, chapter 4.

(4) Section 102 is intended to be codified as an integral part of Title 13, chapter 12.

(5) Sections 104 through 115, section 127, section 130, and section 133 are intended to be codified as an integral part of Title 13, chapter 13.

(6) Sections 135 through 149 are intended to be codified as an integral part of Title 13, chapter 14.

(7) Section 150 and sections 166 through 168 are intended to be codified as an integral part of Title 13, chapter 15.

(8) Section 181 through 184 and section 193 are intended to be codified as an integral part of Title 13, chapter 16.

(9) Section 200 is intended to be codified as an integral part of Title 13, chapter 17.

(10) Section 210 is intended to be codified as an integral part of Title 13, chapter 25.

(11) Sections 244 through 246 are intended to be codified as an integral part of Title 13, chapter 37.

(12) Sections 261 and 262 are intended to be codified

as an integral part of Title 13, chapter 38.

(13) If the sections in (1) through (12) are not codified as instructed in this section, the code commissioner shall add to the MCA, if necessary, statutory language to convey the intent of this section.

Section 378. Repealer. Sections 7-2-4604, 7-2-4605, 7-3-4263, 7-3-4328 through 7-3-4333, 7-3-4342 through 7-3-4352, 7-5-301 through 7-5-303, 7-5-311, 7-5-2211 through 7-5-2222, 7-5-4211 through 7-5-4225, 7-5-4402 through 7-5-4409, 7-6-4433, 7-6-4435, 7-7-2230 through 7-7-2236, 7-7-4228 through 7-7-4234, 7-13-2223, 7-13-2224, 7-13-2248, 7-13-2250 through 7-13-2253, 7-13-2257, 7-13-2326, 13-1-105, 13-2-101, 13-2-111, 13-2-113, 13-2-121, 13-2-204, 13-2-303, 13-4-106, 13-4-204 through 13-4-206, 13-10-101, 13-10-206, 13-10-207, 13-10-210, 13-10-304, 13-10-312 through 13-10-321, 13-10-506, 13-10-603, 13-11-101 through 13-11-103, 13-12-103 through 13-12-105, 13-12-206, 13-12-211, 13-12-213, 13-13-102 through 13-13-110, 13-13-202, 13-13-237, 13-13-238, 13-13-240, 13-13-301, 13-13-303, 13-13-308, 13-14-101 through 13-14-104, 13-14-201 through 13-14-204, 13-14-206, 13-15-301, 13-17-201, 13-17-205, 13-17-207, 13-17-302 through 13-17-304, 13-17-307, 13-17-401 through 13-17-404, 13-18-101 through 13-18-106, 13-13-201 through 13-13-210, 13-35-212, 13-35-216, 13-35-219, 13-35-222 through 13-35-224,

13-35-229, 13-35-230, 13-35-232, 20-20-412 through 20-20-414, 85-7-1701, 85-7-1703 through 85-7-1709, 85-7-1711, 85-7-1713, and 85-9-423, MCA, are repealed.

-End-